U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 18, 1986

Honorable Paul Simon
United States Senate
Washington, D.C. 20510

Dear Senator Simon:

I have asked Deputy Attorney General D. Lowell Jensen to prepare responses to the questions set forth in your letter of today concerning the Department's contract with INSLAW, Inc. As I have mentioned to you previously, the Department's disputes with INSLAW regarding this contract are in litigation before the Board of Contract Appeals and the Bankruptcy Court.

We have responded fully to your inquiries regarding the INSLAW matter. We rely upon you, of course, to discourage any use of the nomination process as a tool for discovery in this litigation.

Sincerely,

John R. Bolton
Assistant Attorney General

Enclosures

1. What was your decision-making and supervisory responsibility over the Department of Justice contract with Inslaw, Inc.?

The INSLAW contract that you have inquired about was executed and administered by the Justice Management Division for the Executive Office for United States Attorneys (EOUSA). The contract involved the installation of computer software for case management in the United States Attorneys' Offices. I am informed that some of the offices were to utilize the software on computers and approximately 70 offices were to utilize the software on word processing equipment.

As the Assistant Attorney General for the Criminal Division, I may have participated in discussions and meetings in which the EOUSA's case management system was discussed. When I became the Associate Attorney General in July, 1983, I was responsible, among other things, for providing overall supervision and direction to the Executive Office for United States Attorneys. See 28 CFR §0.19(a). This responsibility continued and expanded to include overall supervision of the Justice Management and Civil Divisions when I became Deputy Attorney General in May, 1985. See 28 CFR §0.15(b).

While I was the Associate Attorney General, the contracting officer for the INSLAW contract made the decision to terminate the word processing portion of the INSLAW contract. I did not attempt to change this decision because I was convinced that the termination was justified and in the best interests of the government. For your information, I am told that at the time of the termination, the Department had expended approximately 75 percent of the target costs of the contract, and the software had

been installed in only four word processing sites.

I understand that there are presently numerous claims and counterclaims between INSLAW and the Department arising from the termination and other aspects of the contract. These matters are being handled by lawyers in the Justice Management and Civil Divisions. I have been briefed periodically about the status of the negotiations and litigation involving INSLAW, but I have not intervened into either the negotiations or the litigation.

2. a. Did you hire or were you involved in the Department of Justice decision to hire Mr. C. Madison Brewer, III as program manager for the Inslaw contract?

I was not involved in hiring C. Madison Brewer.

b. When did you receive information that Mr. Brewer's former employer, William Hamilton, the owner of Inslaw, had fired Mr. Brewer for cause?

I do not recall when I first learned that Mr. Brewer had previously worked for the Institute for Law and Social Research. It is likely that I was first given this information by INSLAW after problems had developed under the contract. I am presently aware that Mr. Hamilton claims that he fired Mr. Brewer for cause, but I do not know whether this was in fact the case.

c. What were your supervisory responsibilities over Mr. Brewer?

My supervisory responsibilities over Mr. Brewer derived from my supervisory responsibilities over EOUSA. These are described in my answer to the previous question.

3. What were your affirmative responsibilities to Inslaw as the Department of Justice chief policy maker to implement the Inslaw contract?

My responsibilities were to protect the interests of the United States Government and its taxpayers. To the extent that INSLAW asked me to meet with its representatives and to consider its requests, I did so as elsewhere described in these answers.

4. Did you take any affirmative steps to remedy the perceived or actual conflict between Mr. Brewer's relationship with Inslaw and the implementation of the Inslaw contract?

The Department of Justice does not concede that there was a conflict between Mr. Brewer's relationship with INSLAW and the Department's implementation of the INSLAW contract. I am aware that INSLAW claims that Mr. Brewer was biased against them, but I have never seen any evidence that any such bias, if it exists, has affected our handling of the INSLAW contract. For your information, neither the contracting officer for the INSLAW contract, nor the lawyers assigned to the litigation and settlement negotiations, report to Mr. Brewer or EOUSA.

5. a. Did your staff director, Jay Stevens, conduct an investigation into the Department of Justice implementation of the Inslaw contract?

b. What were the findings of that investigation?

c. Was any action taken as a result of that investigation?

As you have been previously informed, I met at INSLAW's request with its representatives. At those meetings, I was asked to entertain INSLAW's proposals for contracts between INSLAW and the Department, and to intercede personally in negotiations between Department attorneys and attorneys for INSLAW.

At my request, Mr. Stevens met with lawyers from the Justice Management Division and the Civil Division to discuss INSLAW's requests. Mr. Stevens advised me that matters were being handled competently and professionally by the assigned attorneys and that there was no occasion for me to intercede personally. My understanding is that Mr. Stevens also advised INSLAW's representatives of these conclusions.

6. Do you have any personal or financial interest in the Dalite case tracking system?

DALITE is a case management system that was developed for the Alameda County District Attorney's Office when I was there. The system was developed with funds provided by the County and by the Department of Justice, Law Enforcement Assistance Administration. The system is unique to that office. I have no financial or other personal interest in DALITE.

MEMORANDUM OF CALL

Previous editions usable

TO: Amy

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Bill Farr

OF (Organization) LA Times

☑ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

(213) 972-4706

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

re: you know

RECEIVED BY Arlene | DATE 12/29 | TIME 3:55

63-110 NSN 7540-00-634-4018 STANDARD FORM 63 (Rev. 8-81) Prescribed by GSA FPMR (41 CFR) 101—11.6

☆U.S.GPO:1986-0-491-247/20042

MEMORANDUM OF CALL

Previous editions usable

TO: AB

☑ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Bill Farr

OF (Organization) LAT

☑ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

818-446-5329

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

Judge George Bason (B-ruptcy Judge)

MESSAGE

Dec. 8 ruling on Inslaw bankruptcy ~~[illegible]~~ case.

Biographical info on Madison Brewer

~~[illegible]~~

Did he receive a bonus in '85 Inslaw contract.

(15,000 large)

RECEIVED BY A | DATE 11-25 | TIME 1:4

63-110 NSN 7540-00-634-4018 STANDARD FORM 63 (Rev. 8-8 Prescribed by GSA FPMR (41 CFR) 101—11.6

☆U.S.GPO:1985-0-491-247/20040

MEMORANDUM OF CALL

Previous editions usable

TO: AB

☑ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Bill Fair

OF (Organization) LAT

☑ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

~~[illegible]~~ 818-446-5379

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

has talked to you about this before

[illegible] Calls

[illegible] 293-4650

RECEIVED BY [illegible] | DATE 12-18 | TIME 11:30

63-110 NSN 7540-00-634-4018 STANDARD FORM 63 (Rev. 8-81) Prescribed by GSA FPMR (41 CFR) 101—11.6

☆U.S.GPO 1986-0-491-247/20042

MEMORANDUM OF CALL

Previous editions usable

TO: AB

☑ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Bill Fair

OF (Organization) LAT

☑ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

213-972-4706

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

RECEIVED BY O | DATE 10-15 | TIME 3:2

63-110 NSN 7540-00-634-4018 STANDARD FORM 63 (Rev. 8-81) Prescribed by GSA FPMR (41 CFR) 101—11.6

☆U.S.GPO 1985-0-491-247/20040

U.S. Department of Justice

Office of Legislative and Intergovernmental Affair

Office of the Assistant Attorney General

Washington, D.C. 20530

June 12, 1986

Honorable Paul Simon
United States Senate
Washington, D.C. 20510

Dear Senator Simon:

At yesterday's hearing on the nomination of D. Lowell Jensen to be a United States District Judge, you asked Mr. Jensen about certain matters pertaining to litigation pending between INSLAW, Inc. and the United States.

INSLAW was a contractor with the Department of Justice. It has asserted various claims for additional funds allegedly due to it under its contract. Those claims are presently pending in administrative litigation before a Board of Contract Appeals. The claims are disputed by the United States, and the United States has asserted counterclaims against INSLAW.

In February 1985, INSLAW filed in the Bankruptcy Court for the District of Columbia a petition in bankruptcy under Chapter 11 of the Bankruptcy Code. Those proceedings are also still pending. Within the past several days, INSLAW filed in the Bankruptcy Court a complaint seeking monetary and other relief. The only defendants are the United States and the Department of Justice. As is true of the Board of Contract Appeals litigation Mr. Jensen is not a defendant and no relief is sought against him. I am informed by our attorneys responsible for the bankruptcy litigation that the issues arise from the Government's contract with INSLAW and overlap in substantial measure with the issues presented in the Board of Contract Appeals litigation.

As requested by you and members of your staff, Mr. Jensen has reviewed his limited dealings with INSLAW and its representatives. He is fully satisfied with the propriety of his actions. At INSLAW's request, Mr. Jensen met with representatives of INSLAW. At those meetings, he was asked to entertain unsolicited proposals for contracts between INSLAW and the Department, and to intercede personally in negotiations between Department attorneys and attorneys for INSLAW. Mr. Jensen declined to do so. The Department attorneys responsible

for the negotiations and for the litigation confirm that Mr. Jensen neither has been involved in, nor has sought to influence, their handling of these matters.

I hope that this is responsive to your questions.

Sincerely,

John R. Bolton
Assistant Attorney General

7/16

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

INSLAW, INC., Debtor-in-Possession Plaintiff, v. UNITED STATES OF AMERICA and the UNITED STATES DEPARTMENT OF JUSTICE, Defendants.	Bankr. Case No. 85-0070 Adv. Proc. No. 86-0069 Honorable George F. Bason, Jr.

DEFENDANTS' ANSWERS AND OBJECTIONS TO PLAINTIFF'S THIRD SET OF INTERROGATORIES AND FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS

Defendants United States of America and the Department of Justice ("DOJ") assert below the following objections and answers to Inslaw's Third Set of Interrogatories and Fifth Request For Production of Documents served June 24, 1987.

Defendants incorporate by reference, as if fully set forth herein, each of the General Objections which were set forth in Defendants' Objection To Plaintiff's First Request For Documents dated December 23, 1986.

INTERROGATORY NO. 1:

Identify and describe in detail each and every communication, written or oral, between James Jenkins and Kenneth Cribs [sic] in or around December, 1985, relating and/or referring to INSLAW.

ANSWER TO INTERROGATORY NO. 1:

Mr. Cribb has no recollection of having any communication

with James Jenkins relating and/or referring to Inslaw, nor do DOJ records reflect any such communication.

INTERROGATORY NO. 2:

Identify and describe in detail each and every communication, written or oral, between Leonard Garment and Kenneth Cribs [sic] in May or June, 1985, relating and/or referring to INSLAW.

ANSWER TO INTERROGATORY NO. 2

Mr. Cribb has a faint recollection that at some period after February 1985 he discussed the Inslaw matter with Mr. Garment or another attorney who represented Inslaw. He has a general recollection that the call related to problems the company was having with a DOJ contract. He recalls referring the call to the DOJ Civil Division for resolution.

INTERROGATORY NO. 3:

Identify and describe in detail each and every communication, written or oral, between E. Robert Wallach and Edwin Meese since August, 1986, relating and/or referring to INSLAW including but not limited to any communication relating and/or referring to the October, 1986 Los Angeles Times article on the INSLAW bankruptcy and/or D. Lowell Jensen.

ANSWER TO INTERROGATORY NO. 3

Mr. Meese has no recollection of having any communication with E. Robert Wallach relating and/or referring to Inslaw, or the October, 1986 Los Angeles Times article on the Inslaw bankruptcy and/or D. Lowell Jensen, nor do DOJ records reflect that any such communication occurred.

INTERROGATORY NO. 4:

Identify and describe in detail each and every communication, written or oral, between E. Robert Wallach and Arnold Burns in or around August or September, 1986, relating and/or referring to INSLAW.

ANSWER TO INTERROGATORY NO. 4:

Mr. Burns has no recollection of having any communication with E. Robert Wallach relating and/or referring to Inslaw, nor do DOJ records reflect that any such communication occurred.

INTERROGATORY NO. 5:

Identify and describe in detail each and every communication written or oral, between D. Lowell Jensen and Edwin Meese relating and/or referring to INSLAW. This interrogatory is without limitation as to time.

ANSWER TO INTERROGATORY NO. 5:

Mr. Meese has only a general recollection of discussions where D. Lowell Jensen was present which concerned the Inslaw litigation and/or the types of automated data processing systems which were being considered for use within the DOJ. In those discussions, PROMIS and alternative systems to PROMIS were discussed, as well as other automated data processing systems.

INTERROGATORY NO. 6:

Identify and describe in detail each and every communication, written or oral, between Leonard Garment and Edwin Meese relating and/or referring to the October, 1986 Los Angeles Times article on the INSLAW bankruptcy and/or D. Lowell Jensen.

ANSWER TO INTERROGATORY NO. 6:

Mr. Meese has a general recollection of a conversation with Leonard Garment in which Mr. Garment mentioned that he discussed Inslaw with Arnold Burns. Mr. Meese does not recall any other conversations with Mr. Garment which related to Inslaw and/or Inslaw's allegations of bias concerning D. Lowell Jensen.

INTERROGATORY NO. 7:

Identify and describe in detail each and every communication, written or oral, between Los Angeles Times reporter William Farr and any agent, officer, attorney, employee, official, or other representative of the Department of Justice in or around June, 1986, relating and/or referring to INSLAW.

ANSWER TO INTERROGATORY NO. 7:

Mr. Farr telephoned Mr. C. Madison Brewer in June, 1986, for a comment regarding Inslaw's allegations that Mr. Brewer was biased against Inslaw; Mr. Brewer told Mr. Farr that he could not comment because the matter was in litigation.

Mr. Farr telephoned Amy L. Brown, Assistant Director of DOJ's Office of Public Affairs on several occasions. The first such conversation occurred sometime between August 25, 1986 and September 17, 1986. Mr. Farr did virtually all the talking in this conversation. He told Ms. Brown about his understanding of Inslaw's allegations that DOJ officials were biased against Inslaw. There was also a discussion during this conversation as to whether Messrs. Jensen and Brewer were named as defendants in Inslaw's law suit. Mr. Farr asked Ms. Brown whether DOJ wanted to comment on Inslaw's allegations. Ms. Brown subsequently told Mr. Farr that since the matter was in litigation DOJ would not

comment outside of DOJ statements made to the Senate Judiciary Committee, in court filings, and/or during court hearings. Ms. Brown referred Mr Farr to the letters of June 12, 1986, and June 18, 1986, which Mr. John Bolton, Assistant Attorney General for Legislative and Intergovernmental Affairs, sent to the Senate Judiciary Committee in response to questions that the Committee posed in connection with the confirmation proceedings for D. Lowell Jensen as United States District Judge. Ms. Brown recalls that she may have made available for pickup by Mr. Farr's associate in Washington, D.C., a copy of either or both letters.

On October 15, 1986, Mr. Farr called Ms. Brown when she was out of the office, and left a message. Ms. Brown does not recall if she returned the call, or if she did, the substance of the conversation.

On November 25, 1985, Mr. Farr called Ms. Brown and left a message. When Ms. Brown returned the call, Mr. Farr told her that the judge in the Inslaw bankruptcy case would be making a ruling on December 8, 1987. Mr. Farr told Ms. Brown that he would probably be writing a story at that time and wanted to be prepared. Mr. Farr asked for a copy of a biography of Mr. Brewer, and Ms. Brown recalls determining that DOJ did not maintain an official biography for Mr. Brewer. Ms. Brown recalls providing Mr. Farr with information regarding Mr. Jensen's dates of service at DOJ. Mr. Farr also asked Ms. Brown whether Mr. Brewer ever received an award for his work on the PROMIS project. Ms. Brown subsequently called Mr. Farr back and told him that she

was unable to confirm that Mr. Brewer had received such an award, and that it appeared he had not.

Mr. Farr also called Ms. Brown on December 18, 1986, December 29, 1986, and January 8, 1987, to inquire about when DOJ would be filing its answers to Inslaw's interrogatories and its answer to Inslaw's complaint. Ms. Brown does not recall whether she subsequently provided Mr. Farr copies of these court filings.

Patrick Korten, Deputy Director of DOJ's Office of Public Affairs has a general recollection of having been contacted by reporters regarding the Inslaw matter. However, he does not recall when the reporters called or if any of those reporters was Mr. Farr.

INTERROGATORY NO. 8:

Identify the author or authors of the document produced by Defendants in discovery in this litigation and bearing Bates No. 19866 (copy attached hereto), and describe in detail the circumstances of its preparation.

ANSWER TO INTERROGATORY NO 8:

Peter Videnieks and Kamal Rahal prepared the subject undated document in approximately November or December, 1982, when the contracting officer was considering terminating Inslaw's advance payment account as a result of Inslaw's breach of the advance payment account covenants in the Contract. Mr. Videnieks recalls that Mr. Rahal requested that the document be prepared so that he

could use it for briefing JMD officials regarding the possible consequences to Inslaw if the advance payment account were terminated.

CERTIFICATION

The undersigned has reviewed the foregoing answers to interrogatories and certifies that those answers are true and correct to the best of his/her knowledge.

Sworn to subject to perjury.

As to the answers to Interrogatories 1, 2, 3, 5, 6

Dated: 7-16-87 David M. McIntosh

DAVID M. MCINTOSH

As to the answers to Interrogatories 4 and 7:

Dated: July 13, 1987 Gregory S. Walden

GREGORY S. WALDEN

As to the answer to Interrogatory 7:

Dated: July 13, 1987 Amy L. Brown

AMY L. BROWN

As to the answer to Interrogatory 8:

Dated: 7/13/87 Peter Videnieks

PETER VIDENIEKS

DOCUMENT REQUEST NO. 1:

Each and every document comprising, referring to or relating to the communications sought to be identified in the foregoing Plaintiff's Third Set of Interrogatories to you.

RESPONSE TO DOCUMENT REQUEST NO 1:

Defendants will produce all non-privileged responsive documents which have not previously been produced to Inslaw.

DOCUMENT REQUEST NO. 2:

Each and every document in the possession, custody and control of the Tax Division of the United States Department of Justice which refers or relates in any way to William A. Hamilton, Nancy Hamilton or INSLAW, Inc.

OBJECTION TO DOCUMENT REQUEST NO. 2:

Defendants object to document request no. 2 because the documents sought have absolutely no relevance to the issues in this proceeding nor would they lead to the discovery of admissible evidence. Furthermore, the request is particularly inappropriate because any documents other than publicly available court filings which may be contained in the files of the DOJ Tax Division, which represents the IRS in court litigation, would almost certainly constitute privileged attorney client and attorney work product matter. Finally, to require DOJ counsel to search, copy and review the Tax Division's files at this time, particularly given the likely claims of privilege regarding those documents, would be burdensome in the extreme and would seriously prejudice counsel's ability to prepare for trial in this matter.

On July 14, 1987, the Court denied Inslaw's motion to compel regarding this document request.

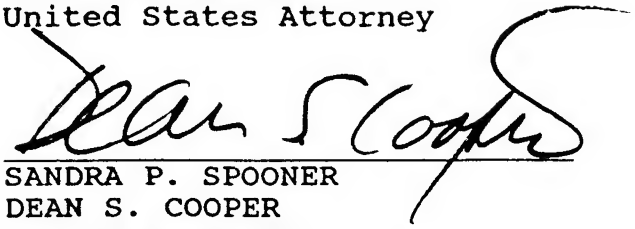
* * *

All of the above objections have been asserted by counsel.

Respectfully submitted,

RICHARD K. WILLARD
Assistant Attorney General

JOSEPH E. diGENOVA
United States Attorney



SANDRA P. SPOONER
DEAN S. COOPER
LAUREN M. BLOOM
Department of Justice
Civil Division
Commercial Litigation Branch
Box 875 Ben Franklin Station
Washington, D.C. 20044
(202) 724-8418

Attorneys for Defendants

Dated: July 16, 1987

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 1987, a copy of the foregoing Defendants' Answers And Objections To Plaintiff's Third Set Of Interrogatories And Fifth Request For Production Of Documents was served by the manner designated below to:

Charles R. Work (Hand Delivered)
Michael E. Friedlander
McDermott, Will & Emery
1850 K Street, N.W.
Suite 500
Washington, D.C. 20006

Philip L. Kellogg (Hand Delivered)
James L. Lyons
Kellogg, Williams & Lyons
1275 K Street, N.W.
Suite 825
Washington, D.C. 20005

October 20, 1987

Memorandum to Independent Counsel File

Re: Inslaw Allegations

Carol Bruce received a number of newspaper articles and a set of DOJ interrogatory answers from an attorney at the law firm which presently represents Inslaw. I've reviewed these articles and the highlighted interrogatory answer. At most, it is alleged that Leonard Garment contacted Edwin Meese about litigation between Inslaw and DOJ at a time when Garment's firm represented Inslaw. It appears that Garment may have attempted to discuss settlement with Meese. Wallach, who was then of counsel to the same firm, may have also contacted senior officials at the Department of Justice about the Inslaw matter. While it is alleged that Garment's law firm may not have vigorously represented Inslaw as a result of a desire to pull their punches in matters important to Meese, no allegation of impropriety by Meese or Wallach is made out in these materials.

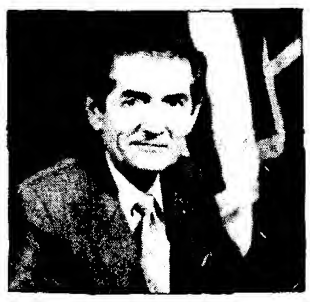
I recommend that we take no further action with respect to the involvement of Meese or Wallach with Inslaw at this time.

Jack Barrett

LEGAL TIMES
LAW AND LOBBYING IN THE NATION'S CAPITAL
MONDAY, OCTOBER 12, 1987 • VOL. X, NO. 19 • $4.00

INSIDE

In the Wings



Judge J. Clifford Wallace

J. Clifford Wallace of the 9th Circuit appears to lead the list to replace Bork. But plenty of names are circulating as the search for a confirmable nominee intensifies. **Page 2**

Inadmissible

Sachs, Greenebaum & Tayler loses matrimonial expert Hal Witt, whose clients include John Fedders. **Page 3**

Lobby Talk

A Saatchi subsidiary could boost a new lobby co-op into the big time. Rival charities want a bigger slice of the United Way's pie. **Page 6**

Senior Service?

A controversial D.C. Superior Court judge ponders senior status, and his critics are at it again. **Page 10**

The Dukakis Grovel

Steven Brill argues that Gov. Michael Dukakis has no business apologizing to Sen. Joseph Biden's supporters. **Page 16**

Messy Inslaw Fight Engulfs Dickstein

Former Client Claims Cronyism by Firm Led to Bum Advice

BY AARON FREIWALD

A Washington, D.C.-based software company's stormy battle with the Justice Department over a canceled $10 million contract now threatens to engulf a prestigious D.C. law firm and several of its prominent partners.

Inslaw Inc., once under contract to install case-tracking systems in U.S. attorneys' offices, on Sept. 28 won a major victory when a federal bankruptcy judge here held that the Justice Department used "trickery, fraud, and deceit" to force Inslaw into bankruptcy.

The judge, George Bason Jr., blasted unnamed high-ranking department officials for "an institutional decision made at the highest level simply to ignore serious questions of ethical impropriety."

Now, D.C.'s Dickstein, Shapiro & Morin, which in June 1986 brought the initial Bankruptcy Court complaint against the Justice Department on behalf of Inslaw, faces harsh accusations—so far unsubstantiated—from its former client that its representation was compromised by the firm's political ties to the Justice Department and Attorney General Edwin Meese III.

Inslaw's president, William Hamilton, charges in interviews with *Legal Times* that Dickstein partner and Reagan administration faithful Leonard Garment forced Inslaw's lead counsel, Leigh Ratiner, who had pursued the case vigorously, to withdraw from the firm partnership. The firm denies the charges.

William Hamilton

It must be stated, again, that Hamilton's charges are unsubstantiated. They are significant because they threaten to drag Dickstein and Meese deeper into the Inslaw controversy. The charges have not been incorporated in any court filing.

Hamilton alleges that Garment, who has represented Meese and is close to other top Reagan administration officials, thwarted Ratiner in order to shield Justice Department officials from the unflattering allegations raised by Hamilton in Inslaw's suit.

Hamilton also complains that Dickstein was not working in his company's best interests when lawyers earlier this year strongly urged Inslaw to settle out of court its dispute against the Justice Department.

Hamilton rejected that advice, sought

SEE **INSLAW**, PAGE 13

Who Pays for the Salary Spiral?

In-House Counsel Grouse Over Associate Pay

BY ELEANOR KERLOW

With 1987 starting salaries for associates up an average of 16 percent over last year, in-house counsel are reacting to the D.C. salary war by continuing to cut the volume of work they refer to outside firms.

Higher hourly billing rates, which are being used to pay for increases in associates' salaries, are the cause for the cutback in outside legal work, says John Worthington, general counsel of D.C.-based MCI Communications Corp.

"[The reduction] is due to the high prices [the firms] charge," says Worthington, whose legal staff has increased

Worthington is not alone in this assessment. Other in-house counsel contend that they are the real losers in the annual "raise-and-call" game played by firms in setting associate salaries.

"Their costs went up, and they have to pass them down," sighs Michael Jehley, general counsel of Equimark Corp., the holding company for Pittsburgh's Equibank and a longstanding client of D.C.'s Arnold & Porter.

While companies will always need outside legal help, general counsel of eight large corporations say rising hourly rates have forced them to scrutinize more carefully the number of hours billed, to negotiate how much they will pay for work, and to do more work in-house.

MCI's Worthington says he has cut some of his costs by more than 50 percent by handling in-house some of the matters he previously sent to the D.C. offices of the company's three main outside law firms: New York's Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey; Chicago's Jenner & Block; and Philadelphia's Morgan, Lewis & Bockius.

For certain types of leasing work, "I can expect to pay $20,000 to have my own people do the work," Worthington says. "If I got that from the outside, I would expect to pay $50,000," he adds.

This fall, many Washington firms will review their current billing rates. Clients may expect to see a four percent to six percent increase in their outside legal bills by early next year, according to senior partners or management

Dickstein, Shapiro Becomes Entangled in Inslaw Imbroglio

INSLAW FROM PAGE 1

new counsel, and ultimately prevailed in court.

"Dickstein should have gracefully withdrawn from representing us because of the potential embarrassment over their friendship with Attorney General Meese," Hamilton says. "That's why there are conflict of interest rules."

In particular, Hamilton says Garment tried to protect longtime Meese friend, former Deputy Attorney General D. Lowell Jensen, who was implicated in Inslaw's lawsuit against the Justice Department.

Jensen, now a U.S. district judge in San Francisco, has repeatedly denied allegations that he sought to force Inslaw into bankruptcy and that he was motivated by a longstanding personal grudge against Hamilton and Inslaw. In the mid-1970s, Jensen, then district attorney in Alameda County, Calif., developed a rival case-management software system. He could not be reached for comment.

Dickstein, meanwhile, has filed a creditor's claim in Bankruptcy Court seeking $464,000 for its Inslaw work. Hamilton could raise his conflict-of-interest charges in an effort to block Dickstein's claim.

But Hamilton says a fee dispute with Dickstein is not behind his charges against the firm.

Frederick Lowther, Dickstein's managing partner, agrees that Hamilton's complaints are probably not motivated by the outstanding bill.

What continues to fuel Hamilton's ire at Dickstein is his belief that after Ratiner's departure from the firm, Dickstein failed to pursue Inslaw's case vigorously and then pressed Inslaw to reach an out-of-court settlement with the Justice Department for far less than Hamilton thought Inslaw could win in court. In both instances, Hamilton believes that Dickstein's connections to Meese and the Justice Department may have contributed to what Hamilton and other Inslaw lawyers describe as Dickstein's lackluster representation of the company.

"Inslaw needs to have a full accounting from Dickstein, Shapiro to determine whether extraneous concerns affected our representation," Hamilton offers.

Bankruptcy Judge Bason awarded Inslaw as yet unspecified damages and all of its attorney fees. A separate hearing is scheduled to consider punitive damages. Hamilton has calculated that the award will be at least $5.4 million, even if the judge does not levy punitive damages. The Justice Department has said it will appeal Bason's ruling.

At Dickstein, Garment and other firm leaders emphatically deny having done anything that would have hurt the interests of their former client or have violated conflict-of-interest rules. To the contrary, they argue that Dickstein provided the crucial groundwork on the case that led to Inslaw's court victory.

Ratiner's withdrawal from the firm, says Dickstein's Lowther, was in no way related to the Inslaw case. "That decision was made by Leigh and by us over a long period of time," says Lowther, declining to elaborate. Ratiner formally left the firm in May.

Garment, a member of Dickstein's management committee, also refuses to discuss why Ratiner left the firm.

"There's a partnership contract attached to his withdrawal with a negative covenant on it," says Garment, who describes the covenant as "an agreement that neither side will say publicly things about the other side."

But Garment flatly denies that Dickstein partners forced Ratiner out because of Inslaw. "That's not correct," he says of Hamilton's accusation.

Ratiner, now president of LSR Enterprises, an Annandale, Va.-based company that makes filing systems for lawyers, declines to discuss details of his departure from Dickstein.

Pressed to respond to Hamilton's claim that Garment forced him out because of his work for Inslaw, Ratiner says only, "I don't have any evidence to support that theory."

But Inslaw President Hamilton insists that Garment engineered Ratiner's departure because of Garment's sensitivity to the bad publicity the Justice Department was starting to receive over the Inslaw controversy.

Three other lawyers currently involved in different aspects of the Inslaw case—none of them at Dickstein—say that Ratiner complained to them that Garment had instigated Ratiner's departure from Dickstein because of his aggressive tactics in representing Inslaw.

Latest Chapter in a Bitter Saga

The nasty feud between Dickstein and Inslaw is only the latest installment in a bitter saga in which the integrity of high-ranking officials has been called into question.

Inslaw, founded by Hamilton in 1973 as a non-profit entity, went for-profit in 1981 after the source of its federal funding, the Law Enforcement Assistance Administration (LEAA), was cut from the Reagan budget. It prospered for a time, particularly after landing in 1982 a $10 million contract to install case-tracking software, known as PROMIS, in the 94 U.S. attorneys' offices. At the time, the contract was the largest ever awarded by the Justice Department.

The Justice Department, however, later suspended payments, claiming Inslaw had failed to meet its contract obligations. With the company and the Justice Department engtangled in a protracted contract dispute, Inslaw in February 1985 filed for bankruptcy.

Dickstein was hardly the first major firm to go to bat for Hamilton. His dispute with the Justice Department has attracted a coterie of powerful Washington lawyers. Former Attorney General Elliot Richardson, a partner in the D.C. office of Milbank, Tweed, Hadley & McCloy, and Donald Santarelli, a well-connected Republican lawyer and partner with D.C.'s Santarelli, Smith, Kraut & Carroccio, have advised Inslaw in its dealings with the Justice Department.

Harvey Sherzer, first as a partner with San Francisco's Pettit & Martin and then with D.C.'s Howrey & Simon, provided Inslaw's outside corporate counsel, and, through the end of 1985, was chief negotiator for Inslaw in its complex contract dispute with the Justice Department.

Dickstein came into the picture when Inslaw decided to seek litigation counsel after negotiations between Inslaw and the department broke down in late 1985. Despite its talent for hardball litigation, Howrey & Simon was out of the running: Inslaw by then had filed for bankruptcy and could not come up with the legal fees already owed Howrey & Simon—around $75,000, according to a source at the firm.

Howrey & Simon was reluctant to take on a contingent-fee case with a company in bankruptcy, despite Sherzer's good relations with Hamilton, say several Inslaw lawyers.

"There is a certain reticence on the part of some firms to litigate with bankrupt clients," says Charles Docter, of D.C.'s Docter, Docter & Salus, Inslaw's current bankruptcy counsel.

In January 1986, Elliot Richardson brought Dickstein's Ratiner to the defense of Inslaw. Ratiner—a Dickstein partner since 1977, who knew Richardson from their days as negotiators on the Law of the Sea Treaty—said that he would take the case despite Inslaw's financial condition. A retainer agreement was signed Feb. 5, 1986.

Right Man for the Job

In many ways, Ratiner, 48, was the ideal lawyer for the job: aggressive, smart, prone to pounding his fist on the table to underline a point.

But Ratiner also had a reputation at Dickstein as something of a maverick, a man with a sizable ego and few close friends within the firm.

An April 22, 1982, profile in *The Washington Post* introduced Ratiner, on leave from Dickstein so that he could return to the Law of the Sea talks, as a man who "drives three motorcycles and a sportscar, wears a gold chain around his neck, and answers to the nickname 'Black Prince.' "

Garment, the former White House Counsel to President Richard Nixon, was livid over the 1982 *Post* profile of Ratiner, according to a Dickstein source, because the "Black Prince" sobriquet did not fit the image Garment was trying to build for his firm.

But while bad blood may have developed between Garment and Ratiner, in 1982 Garment agreed to help Ratiner with his new client, Inslaw. According to Garment, Hamilton, and Justice Department officials, Garment arranged for Ratiner to meet with Stuart Schiffer, a deputy to Richard Willard, the assistant attorney general for the Civil Division.

Ratiner, accompanied by junior partner Michael Nannes, showed Schiffer the Inslaw complaint, which was ready for filing in U.S. Bankruptcy Court and which alleged that the Justice Department had stolen Inslaw's PROMIS software after canceling Inslaw's government contract.

"We did not receive any reaction [from Schiffer] in the sense of, 'Please don't file this complaint,' " recalls Nannes. Dickstein filed Inslaw's complaint the day after the Schiffer meeting, June 9, 1986.

After a summer of exchanging motions in court, Hamilton says, E. Robert Wal-

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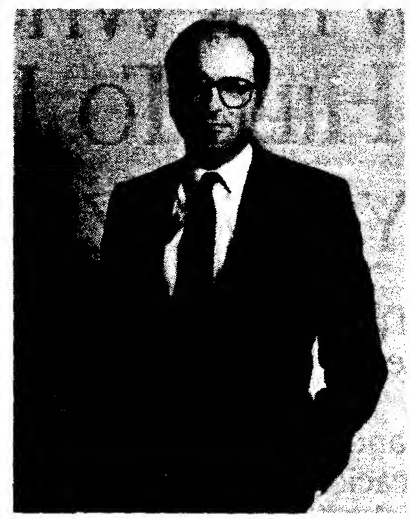

Lawyers in the Inslaw Fight

The cast in Inslaw's messy battle with the Justice Department and Dickstein, Shapiro include, counterclockwise from above: Charles Work, D. Lowell Jensen, Leigh Ratiner, Leonard Garment, and Elliot Richardson.

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lach, a Dickstein lawyer entangled in the Wedtech affair, appeared on the scene.

With Garment's assistance, Wallach had joined Dickstein as of counsel in early August 1986. Ratiner, who knew Wallach was close friends with Meese, asked if Wallach could impress Inslaw's position on senior Justice Department officials, says Hamilton.

Wallach vowed to speak to Jensen—who had already become a federal judge in San Francisco—and then to take Inslaw's case to Meese and to Jensen's replacement as No. 2 in the department, Arnold Burns. Hamilton states in a deposition taken by Justice Department lawyers as part of the bankruptcy proceeding.

After vacationing with Meese in Jackson Hole, Wyo., and taking a brief trip to Europe, Wallach met on Sept. 25 with Ratiner and Nannes about Inslaw, according to Hamilton.

At that meeting, Wallach related that the Justice Department would not settle with Inslaw, say Hamilton and Nannes.

Wallach also told Ratiner, according to Hamilton, that Jensen would always be involved in the Inslaw dispute, even as a judge in San Francisco.

Nannes says he does not know to whom Wallach spoke or on what basis he formed this conclusion about the Justice Department's posture. But Nannes says he never challenged Wallach's assessment because it made sense at that time.

"We felt we were going to have to slug it out on the [Justice Department's] motion to dismiss, before a favorable settlement could be reached," says Nannes.

Wallach, reached last week at his San Francisco law office, denied any involvement. "I did not talk to Arnie Burns. I did not talk to Lowell Jensen. And I do not have any recollection of Inslaw at all," Wallach said.

In Justice Department responses to Inslaw interrogatories last summer, Burns and Meese say they have no recollection of conversations with Wallach relating to Inslaw.

Despite Wallach's conclusion that the Justice Department was not inclined to settle with Inslaw, Hamilton says, Dickstein lawyers subsequently pressed on several occasions for a settlement along lines Hamilton says were highly unfavorable to Inslaw.

On Jan. 15, 1987, Nannes asked Hamilton to sign over authority for Dickstein to negotiate on behalf of Inslaw. Nannes proposed seeking $1 million—of which nearly half would have gone to cover Dickstein's fees—and a stipulation from the Justice Department that Inslaw owned the proprietary rights to the contested PROMIS software.

Hamilton rejected the settlement proposal because, he says, the $1 million would have barely covered attorney fees and would not have begun to compensate Inslaw for the use by Justice of the software throughout the dispute. Within days, he sought out new representation, at the D.C. office of Chicago's McDermott, Will & Emery, where partner Charles Work took over the case and continues as Inslaw's lead counsel. Work brought in D.C.'s Kellogg, Williams & Lyons as co-counsel.

"Dickstein said either you give us authority to settle at this ridiculously low level or we will seek to withdraw," says Work. Hamilton's response, says Work, was "Don't bother."

Garment's role in the case remains a source of controversy because of his close ties to Meese, who has not recused himself from the Inslaw case, according to Amelia Brown, a department spokeswoman. Meese and Jensen are also close personal friends.

A Justice Department response to an Inslaw interrogatory last summer reveals that Meese and Garment conferred by telephone about Inslaw at least once in the fall of 1986. This was after an article in *The Los Angeles Times* spotlighted Inslaw's allegations against Jensen and the department. Garment also spoke with Deputy Attorney General Arnold Burns, the interrogatory reveals.

But, says Hamilton, neither he nor Ratiner was ever informed of Garment's contacts.

"I think it's amazing that it was never revealed to the client," says Work, Inslaw's current lead counsel. "Sometimes things slip, but not something like that," he adds.

Garment acknowledges that he spoke to Burns, but he recalled the Meese conversation only after being told of the response by the Justice Department to the Inslaw interrogatory. "Maybe I talked to him, I don't know. I talk to a lot of people," says Garment.

"It seemed to me it was a case that had some merits and that they [the Justice Department] should look into the facts and try to settle it," Garment adds.

But Hamilton believes Garment's conversation with Meese may have sparked a decision by Dickstein's leaders to pursue his claims less vigorously. Dickstein's managing partner Lowther says this claim is ridiculous.

"The notion that we were involved in a highly charged political situation is just wrong," Lowther says. Besides, he adds, "This firm didn't view this as an unusual case, [and] we're often in controversial cases with the Justice Department."

But Hamilton claims that after Ratiner ceased playing an active role in the case, Dickstein lost interest in pursuing Inslaw's litigation.

Hamilton says, for example, that Lowther promised at a Nov. 21, 1986, meeting to provide senior litigation counsel to replace Ratiner on the case. This never happened.

Work, a former president of the D.C. Bar, says the Dickstein team, short the active involvement of a senior attorney, was too inexperienced to handle the case.

"They were talented younger lawyers," says Work, "but Dickstein representatives acknowledged to us at one point that none of them were first chair material for this case."

Lowther defends the firm's decision to stick with the legal team it had already assembled: Nannes; associate Ronald Perkowski; and Richard Conway, now a partner in the firm's Vienna, Va., office, who had a limited role in the case.

Had Dickstein stayed with Inslaw into trial, the firm "would have committed the resources to do it," says Lowther, "but we don't have any clients where I devote nine lawyers early on, especially a client in bankruptcy."

Moreover, adds Lowther, "We didn't view [Ratiner's] departure as a major obstacle to the case."

Just as Dickstein maintains that Ratiner's departure from the firm—and his leaving the Inslaw case—had nothing to do with Inslaw, Lowther argues that the firm's decision not to continue its representation of Inslaw into trial was reasonable and entirely defensible.

Lowther says Dickstein fulfilled its obligation to Inslaw, first by drafting a novel complaint, then by establishing Inslaw's right to action in Bankruptcy Court and by blocking the Justice Department's motion to dismiss; Judge Bason denied that motion last December.

"If you look at the retainer agreement," adds Lowther, "we agreed to take the case up to trial, and then we reserved our right

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COMMENTARY

The Dukakis Grovel

No Apologies for Spreading Truths

BY STEVEN BRILL

The specter of Gov. Michael Dukakis of Massachusetts groveling around Iowa apologizing to supporters of Sen. Joseph Biden Jr. (D-Del.) marks a new level of absurdity in presidential politics. Why should Dukakis be sorry that his campaign helped expose Biden as an intellectual kleptomaniac and a liar? That one of Dukakis' major opponents is filching speeches and then claiming they're his own words about his own ancestors and that he happened to think of them "on the way over" to his speaking appearance is certainly more relevant to an election than the information Dukakis freely provided that his wife once had a problem with diet pills. It's Biden who owes his tearful, gullible supporters the apology, not Dukakis.

Yet Dukakis felt compelled to apologize and to fire close friend and campaign manager John Sasso when Sasso's thoroughly appropriate role in supplying the video evidence of Biden's speech-stealing became known. That's because Dukakis got caught up in the swirl of recrimination about "the process" that seems to be dominating the media's coverage of the campaign this season.

Steven Brill is president and editor, American Lawyer Newspapers Group.

All through the summer, Biden was one of the seven dwarfs, discounted by the press and his opponents as a lightweight. But the morning after he was driven from the race, most of his opponents opined in interviews that the demise of his candidacy was a loss, a tragedy, an indication that the process is too fickle, that it judges people too harshly, too quickly. I even saw political media consultant David Garth on one newscast declaring that Biden's departure suggests that no one who has had a full, interesting career is trouble-free enough to run for president in this day and age.

That's nonsense. First, not everyone steals, even as a young adult. Second, Biden wasn't driven from the race because he stole five pages of a law-review article as a first-year law student. A lot of voters, like me, find it at least rebuttably relevant that a man who wants to be leader of the free world was a plagiarist as a youth *and* finished at the bottom of his class at Syracuse Law School. Nonetheless, he could have washed that away with some offhand, even funny, reference to it in a campaign speech or two last month or last year.

Instead, what did Biden in was the totality of evidence that showed him to be a casual, even instinctive liar, whether in describing his record in law school or telling an audience that "On the way over I had a thought," when the thought had been Neil Kinnock's.

After Biden was driven from the race, most opponents opined that his demise was a loss, an indication the process is too fickle. That's nonsense.

That's not trival. We ought to care a lot more about whether a presidential candidate is a phony—especially one with a non-record as a legislator who's running as an orator who can inspire America anew—than we should care about what his position is on almost all the issues.

These days, character as a factor in picking leaders is getting a bad name. But character counts, whether in dealing with Congress, dealing with the Russians, or dealing with the budget. President Reagan's lazy, slipshod approach to his responsibilities, combined with his lack of brainpower, has surely counted more in the Iran arms fiasco than his stated position on terrorism.

I would have wanted the press—even aided by a rival campaign manager—to dredge up in 1968 whatever it could about how Richard Nixon had lied in his California senate campaign against Helen Gahagan Douglas. And, yes, I think it was relevant for the voters to know in 1960, even if they then chose to ignore it, that one of the candidates was reckless or crazy enough to share a mistress with a mobster.

I carry some personal baggage into this argument. In a much-criticized article in *Harper's* in early 1976, I portrayed a then-up-and-coming Democratic candidate named Jimmy Carter as someone who had no real beliefs and no real vision except a vision of himself as the perfectly packaged "I'll-never-lie-to-you" candidate for the post-Watergate era. To make the case, I noted that with tears in his eyes Carter told a bunch of high-school kids at several campaign stops that if they wrote to him, he and Rosalyn would open all their letters personally; that Carter's gubernatorial campaign had financed a black candidate to run as a second opponent to Carter in a 1970 gubernatorial primary in order to split the liberal vote against Carter; that Carter's claim to have reorganized and streamlined Georgia's government was false; and that Carter's description of him-

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LETTERS

Unwarranted Proposals

To the editor:

This letter is in regards to Lisa Schkolnick's article, "Proposal Would Tighten D.C. Bar Waive-In Rules" [*Legal Times*, Aug. 24, 1987, Page 5]. I believe that some of the proposals put forth by the so-called Kay Committee for changing the D.C. bar examination and the process of admission by waiver are inappropriate. Foremost among the committee's controversial proposals are standardization of the grading of the D.C. bar essay examination and increasing the MBE score requirement for waiver applicants to 145 from the present 133.

Under standardization, a system would be initiated to review all essay scores that fall within a limited range of the passing score. This review would take place prior to determining the final grades for publication. They propose that the post-examination review procedure be limited to one review by the examiners/graders responsible for the question under review. They believe that their proposed standardization process will remove the need for the present second-tier appeal process, where examiners who did not grade one's examination can review the work of those who did. They do not seem to take into account student perceptions of this change. Even if the second tier of examiners tend not to overrule the first set of graders, students perceive this second review as the way the system ensures that one set of graders won't fail a student for arbitrary reasons. Also, by reviewing essay scores above the passing range as well as essay scores that just miss passing, students will perceive that the D.C. bar examiners will now have an incentive to reject student essay exams that would have passed under the old system.

The justification for raising the MBE score from 133 to 145 is unclear in the committee's report. The committee seems to be concerned that a large number of new Pennsylvania admittees who seek to waive into D.C. did not have their essays reviewed. The committee's "research" indicated that waiver applicants who scored a 145 or higher on their MBE were likely to pass a bar essay examination if it were scored. However, it is unclear from their discussion why the score of 145 was the "magic number" as opposed to other scores (140, for example). The committee did not discuss the fact that applicants who passed the Pennsylvania examination and seek to waive into D.C. who scored a 133 or 134 did have to have their essay examinations graded to pass the bar. How the committee knows that those who scored a few points higher didn't do so well on their essay examinations is beyond me.

The committee cited the increase in waiver applications from Maryland and Virginia as part of the problem, but cited nothing to prove that an applicant from these states with, say, a 140 MBE score is an unqualified applicant.

If the committee were really concerned with the legal writing skills of applicants to the D.C. Bar, they would have recommended that these skills be taught in a CLE course to successful applicants with low MBE scores and ungraded essay examinations.

In summary, some of the committee recommendations to the D.C. Court of Appeals Committee on Admissions are unwarranted and raise many questions. If the goal is to exclude (albeit temporarily) new lawyers from the District, then these recommendations are fine. But if it would be more appropriate to use a scalpel rather than a sledgehammer in improving the process, other alternatives should be considered by the Committee on Admissions.

Emmitt Carlton
Alexandria, Va.

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to decide [whether to continue on through trial]."

Junior partner Nannes says the decision not to continue representing Inslaw came some time in early January of this year, when "the relationship was deteriorating." Both Nannes and Lowther decline to elaborate.

Hamilton counters that Dickstein decided not to pursue the Inslaw case even before lawyers had a chance to examine fully Justice Department documents.

"On the eve of finally being able to see the documents [in early January], they came to us and told us it was time to settle," says Hamilton.

Nannes concedes: "No one can say we took the case all the way through discovery." Yet he maintains that Dickstein lawyers did conduct an "extensive' examination of the "roomful of documents" the Justice Department released in discovery. "We certainly didn't skimp on resources in getting ready for trial," Lowther adds.

But Work contends that he had to muster a team of lawyers to replace Dickstein to take 45 depositions before trial; the trial date was postponed to July 20 of this year.

The ever-critical Hamilton is now more than happy with Work and his current legal team. Judge Bason's September ruling granted Inslaw practically everything it asked for, including attorney fees, which Hamilton estimates total $1.5 million, including Dickstein's $464,000 claim. As vindication, Hamilton cites the unusually harsh criticism of the Justice Department that is contained in Judge Bason's ruling.

Hamilton says he would have been denied such vindication if he had followed Dickstein's advice to settle nine months ago.

"We were stunned," says Hamilton of Dickstein's final settlement proposal. "We were left, a company in bankruptcy, to find new counsel right in the middle of litigation." □

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1730 M Street, N.W. (Suite 802)
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(202) 457-0686

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HIGHLIGHTS

Justice Collusion p. 3

A U.S. bankruptcy judge has ruled that ranking Department of Justice officials colluded to drive a well-known computer software firm out of business.

Firm Driven Out of Business

U.S. Officials Stole Software, Says Judge

BY FRED STRASSER
National Law Journal Staff Reporter

WASHINGTON — In a set of harshly worded decisions, a federal bankruptcy judge here has found that ranking Department of Justice officials colluded to drive a well-known computer software firm out of business and then stole the company's product for the government's own use.

U.S. Bankruptcy Judge George F. Bason Jr. found that the tentacles of wrongdoing in the government's "outrageous" dealings with Inslaw Inc. — the leading purveyor of criminal justice software in the country — reached into several areas of the department. Those implicated in maneuverings against the company include former Deputy Attorney General D. Lowell Jensen, now a federal judge in San Francisco; Thomas J. Stanton, director of the Executive Office for United States Trustees; and officials of the Executive Office for United States Attorneys (EOUSA).

Judge Bason's Sept. 28 decision ordered the government to pay undetermined damages and also awarded attorney fees that may reach more than $500,000, most of it for Inslaw's litigation counsel, Chicago's McDermott, Will & Emery. Other action is still pending, including a decision on whether punitive damages against the government may be awarded. *Inslaw Inc. v. U.S.*, 86-0069.

A department spokesman, denying any wrongdoing by Justice officials, said the decision will be appealed.

Fired Employee

The key figure in the still-unraveling case is C. Madison Brewer, a senior Executive Office official fired from Inslaw's staff in 1976. In 1982, Mr. Brewer was hired by EOUSA, the unit that provides logistical support to federal prosecutors around the country. Mr. Brewer's job was to oversee the multimillion dollar installation of Inslaw's case-tracking system, known as PROMIS, in 94 U.S. attorneys' offices.

In a decision that took two hours to read from the bench, Judge Bason said Mr. Brewer was "consumed by hatred and a desire for revenge" against his former employer and had consistently tried to sabotage the company's future. Mr. Brewer used a complex contract dispute

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Computer Firm's Failure Tied to Official Misconduct

Continued from page 3

that erupted between the department and Inslaw to stop payments to the company, which led to its filing for reorganization in bankruptcy, the judge said.

Once the firm went into Chapter 11, Mr. Brewer pushed on several fronts to convert the bankruptcy from reorganization to liquidation, the judge ruled. One avenue was through conversations with the trustees' office. Trustees act as special masters for bankruptcy judges, overseeing complex cases and making recommendations to the court.

Pressured Trustees

In a June decision on part of the case, Judge Bason found that Mr. Stanton, chief of the then-experimental trustees program, pressured the trustee in charge of Inslaw's bankruptcy to move to liquidate the company.

Judge Bason based his finding in part on personal experience: The trustee, William C. White of the program's Alexandria, Va., office, asked the judge to include language in a confidentiality order to insulate him from Mr. Stanton's pressures. Later, Mr. White, who is now in private bankruptcy practice with Alexandria's Hazel, Thomas, Fiske, Beckhorn & Hanes denied he had been pressured. Judge Bason suggested Mr. White was trying to preserve his relationship with the trustee's office, with which he had frequent dealings on behalf of clients.

According to the judge, Mr. Stanton's objective was to "curry favor" with other Justice officials at a time when the trustee program was being evaluated and Congress was about to be asked for a permanent authorization.

The key official involved was Judge Jensen, who chaired a Justice Department committee on oversight of the PROMIS project.

Judge Bason said relatively little about Judge Jensen in his decision. Attorneys for Inslaw's president, William A. Hamilton, have questioned the propriety of putting any former employee in charge of a contract, and Judge Bason said Judge Jensen seemed to recognize such an assignment was a "bad idea."

But, he added, "He didn't give any hint that he recognized the application of the principle to Brewer and Inslaw." Indeed, a key finding of the judge was that Judge Jensen, then the department's second-ranking official, had not even investigated Inslaw's complaints about Mr. Brewer's bias, despite government regulations requiring that charges of conflict of interest be referred to the Office of Professional Responsibility for independent investigation.

The investigation was limited to a few officials asking Mr. Brewer if he had been fired and accepting his negative answer, Judge Bason noted. That was "an institutional decision by the Department of Justice made at the highest level simply to ignore serious questions of ethical propriety," he said.

Competing System

Judge Jensen's hostility to the company stemmed from past professional competition, according to Inslaw's pleadings. While he was Alameda County, Calif., district attorney in the 1970s, Judge Jensen designed a case-tracking system called Dalite. Like Inslaw's PROMIS, Dalite was developed with a grant from the Law Enforcement Assistance Administration. Judge Jensen allegedly touted his software as being far superior to Inslaw's and was perturbed when the LEAA chose to promulgate Inslaw's system nationally.

The second leg of the case involves a dispute over who owns Inslaw's PROMIS software. The department, led by Mr. Brewer, argues the system was developed with public money and is in the public domain. The company contends it developed two systems: a basic PROMIS and a second version enhanced through private investment.

Judge Bason not only agreed with the company on the question of enhancement, but ruled that the department "took, converted, stole, Inslaw's enhanced PROMIS by trickery, fraud, and deceit." Furthermore, he said, the department was using the enhanced version in about 45 U.S. attorney's offices where contracts with Inslaw had been canceled, in addition to the 20 offices where the contracts were complete. The department, he said, had been told early in its dealings with the company that the enhancements would mean a higher price, but officials feigned ignorance of that fact.

> Judge Bason ruled that the department 'took, converted, stole [the company's program] by trickery . . . and deceit.'

'Collective Amnesia'?

Judge Bason said he found the testimony of department witnesses generally unbelievable. Laurence S. McWhorter, now acting director of the Executive Office for U.S. Attorneys, "didn't remember anything" and had lent money to Mr. Brewer. Mr. Brewer's assistant, Jack S. Rugh, "had ambitions to carry on the project in-house and thereby build his own little empire," and suffered from the "collective amnesia" that afflicted government witnesses.

Judge Bason dismissed the testimony of William P. Tyson, the former director of EOUSA, as "ludicrous," after he said Mr. Brewer's attitude toward Inslaw was positive. It was "extraordinary" that an ethics officer such as Janis Sposato treated allegations of outrageous conduct so casually, he said.

On the other hand, Inslaw president William A. Hamilton's testimony was accurate, he said, as was that of Elliot L. Richardson of the Washington office of New York's Milbank, Tweed, Hadley & McCloy. Mr. Richardson, who has a long involvement with the company, tried to negotiate a settlement with senior department officials. (NLJ, 5-20-85.)

Despite more than two years of adversary proceedings under the bankruptcy, the litigation between the government and Inslaw has not ended. Another trial is set to determine whether a department lawyer tried to improperly influence the creditors committee. The amount of the damages remains to be determined, as does the potential for a punitive judgment.

In the meantime, Judge Bason has enjoined from any dealings with Inslaw Mr. Brewer, his deputy Mr. Rugh, and the contracting officer on the project.

"We are going to appeal," said Mr. Brewer. "I can't say much but that Inslaw has succeeded through personal attacks and slander to avoid scrutiny of their performance. The ultimate losers are taxpayers of the United States."

Washington Post
October 6, 1987

The Inslaw Case

THE JUDGE didn't mince words. The defendant, he said, "took, converted, stole" the plaintiff's property "by trickery, fraud and deceit." The defendant made "an institutional decision . . . at the highest level simply to ignore serious questions of ethical impropriety, made repeatedly by persons of unquestioned probity and integrity, and this failure constitutes bad faith, vexatiousness, wantonness and oppressiveness." The defendant also engaged "in an outrageous, deceitful, fraudulent game of cat and mouse, demonstrating contempt for both the law and any principle of fair dealing." And who do you suppose this defendant is—a corporation set up by the mob to swindle widows? A brokerage house stealing from clients and trading on insider information? Not at all. The culprit is the United States Department of Justice.

U.S. Bankruptcy Judge George Bason used these terms in a recent ruling against the department. The plaintiff was Inslaw, a corporation that had developed software that is widely used by prosecutors to track the progress of cases and compile information about caseloads, dispositions, characteristics of offenders and other material. Inslaw is now in the process of reorganizing in bankruptcy because of problems involving a contract with the Justice Department. The contract, which accounts for 70 percent of the corporation's business, called for Inslaw to install its software system in the offices of each of the 94 U.S. attorneys. Judge Bason found that the company was the victim of bias on the part of C. Madison Brewer, who had been fired by Inslaw and then hired by the Department of Justice to supervise the software contract. Over the course of several years, department officials had been challenged about the apparent bias of Mr. Brewer—the judge found that he "was consumed by hatred for and intense desire for revenge against" the president of the company—but undertook no real investigation. Moreover, the department continued to use Inslaw's property without compensation.

These are not simply charges; they are a judicial finding. While the department will undoubtedly appeal the judgment and the order to pay substantial damages, a more immediate public accounting is in order. Why was Mr. Brewer hired for this particular job in the first place? Why did no one at the department take seriously the charges of conflict of interest? What steps are being taken to provide a permanent mechanism within the department for reviewing charges of this kind?

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Judge Charges Justice Dept. Drove Firm to Bankruptcy

By RONALD J. OSTROW, *Times Staff Writer*

WASHINGTON—A federal bankruptcy judge, in an unusually harsh finding, ruled Monday that Justice Department officials "up to the highest levels" engaged in "outrageous and indefensible" conduct that allegedly drove an award-winning computer software firm into bankruptcy.

At the center of the case is a Justice Department official who once worked for the software firm, Inslaw Inc., but was fired from it in 1976. The official, C. Madison Brewer, grew so "consumed by hatred," Judge George Bason Jr. said, that he sought in a variety of ways to sabotage Inslaw's $10-million contract with the department and to ruin its business elsewhere.

And when Inslaw—backed by such notable figures as former Atty. Gen. Elliot L. Richardson—protested the treatment as an obvious conflict of interest, their complaints were viewed as attempting to bring "political pressure," which Bason said in a sarcastic tone would be "of course unthinkable for the Department of Justice."

When asked about the ruling, Brewer said in a telephone interview: "I have a somewhat different perspective. Inslaw has succeeded through a scheme of ad hominem attacks and slander to divert attention away from and prevent analysis of their performance and the costs related thereto. The ultimate losers are the taxpayers."

Please see JUDGE, Page 12

William Hamilton, Inslaw's president, said that Bason's ruling will be of "tremendous help" to the firm, which he said plans to submit a financial reorganization plan to the court within 90 days.

Patrick S. Korten, the Justice Department's deputy director of public affairs, said that the department will appeal Bason's decision, adding: "We are satisfied the department's conduct was lawful and proper."

In finding that Brewer believed Hamilton had "wrongfully discharged" him from Inslaw, Bason said it was "impossible for the court to accept Brewer's testimony that he didn't know he had been fired and thought he quit voluntarily. It's not the type of thing you make a mistake about," the judge said.

Bason found testimony and actions by several department officials in the case "incredible," "blase" and "biased." The judge's criticism extended to former Deputy Atty. Gen. D. Lowell Jensen, now a federal judge in San Francisco.

Bason said that Jensen appeared to recognize the principle that it is "a bad idea" to hire someone to supervise a contract with his former employer. "But he [Jensen] didn't give any hint that he recognized the application of the principle to Brewer and Inslaw," Bason said.

'Trick, Fraud, Deceit'

The judge also ruled that the department—by "trick, fraud and deceit"—stole a computer software program Inslaw developed to manage caseloads in U.S. attorneys' offices across the nation, as well as in state and local prosecutors' offices.

While finding that the department was liable for damages suffered by Inslaw, he left to a future trial the amount and the question of whether punitive damages should be awarded. But he did order the department to pay Inslaw's attorney fees and court costs, estimated at $500,000, and for all use of the software program from 1985, when Inslaw filed for bankruptcy, and for as long as federal prosecutors continue to use it.

Bason also disqualified Brewer and two other department officials from negotiating or making any decisions about the software program. He said that Brewer's "lust for revenge" manifested itself in several ways while he was the department's director of the office of management information systems and services. When Inslaw's department contract was only a month old, Brewer sought to terminate it—an action that government witnesses testified would have been "ludicrous and absurd."

Brewer then tried to learn how many other contracts Inslaw had at the department with the "obvious intent to try to scuttle as many as he could," the judge said. By not authorizing prompt payments to Inslaw, he sought to "starve" the Washington-based company of "working capital it needed to survive."

JUDGE: Justice Dept. Harshly Criticized

After Inslaw filed for bankruptcy under Chapter 11, a move that allowed it to reorganize, Bason said Brewer took steps to convert the bankruptcy into a much harsher Chapter 7, or liquidation.

The judge's ruling criticized these other Justice Department officials in the case:

—Janis A. Sposato, general counsel of the management division, who showed "willful blindness to the obvious" by treating "so casually serious allegations of outrageous conduct by Mr. Brewer." Sposato previously has drawn criticism for her handling of Atty. Gen. Edwin Meese III's financial disclosure statement.

—William P. Tyson, former director of the executive office of U.S. attorneys, for describing Brewer's attitude toward Inslaw as "positive and constructive in every way." Bason said of Tyson, who is now chief administrative hearing office in the executive office for immigration review: "There's no way I can believe anything the man has to say."

—Laurence McWhorter, Brewer's superior as deputy director for the executive office of U.S. attorneys, whose testimony the judge characterized as "totally unbelievable." He said that McWhorter had testified 147 times that he could not remember details of how the contract was handled.

—Jack S. Rugh, Brewer's assistant, who the judge said was trying to take over Inslaw's program inside the department to "build his empire" and who suffered "collective amnesia" during the trial of Inslaw's suit against the department.

Staff Writer David Lauter contributed to this story.

The Washington Post, September 29, 1987

Judge Slaps Justice Dept.

Inslaw's Software Is Ruled Stolen

By Mark Potts
Washington Post Staff Writer

A federal bankruptcy judge ruled yesterday that the Justice Department used "trickery, fraud and deceit" to steal a computer software program developed by a Washington company and then attempted to drive the company out of business.

In a decision that at times was sarcastically critical of the Justice Department's handling of the case, Judge George F. Bason Jr. said he was disturbed by the department's failure to investigate allegations by the company, Inslaw Inc., that several department officials—one of whom had been fired by Inslaw—were biased against the company.

"The failure even to begin to investigate is outrageous and indefensible and constitutes an institutional decision by the Department of Justice at the highest level simply to ignore charges of impropriety," Bason said. "It was obvious to me . . . that the entire Department of Justice was in a circle-the-wagons defensive attitude."

Bason's ruling came in a complicated, 2½-year-old case in which Inslaw charged that it was driven into bankruptcy by a vendetta by Justice Department officials. The company maintained that the department improperly claimed ownership of a software program called Promis that was developed by Inslaw to track cases in U.S. attorneys' offices.

The judge ordered the government to pay Inslaw for the use of the software beyond the contract's spec-

See INSLAW, A12, Col. 1

INSLAW, From A1

ifications. Inslaw estimated the government owes the company about $5.4 million in software licensing fees. The government was also ordered to pay the company's legal fees, which an Inslaw attorney estimated at about $500,000. Bason said he would decide at a later date about other damages, although he said he was unsure the federal government could be held liable for punitive damages.

The Justice Department said it would appeal the judge's decision to the U.S. district court. "We believe strongly that we are correct, that the department's conduct was lawful and proper," a spokesman said.

Inslaw Chairman William A. Hamilton said, "We're very pleased and hope that this will be the beginning of the healing process." Hamilton said that because the judge ruled that Inslaw, and not the government, owned the Promis software that had been at the center of the dispute, the company was in a better position to submit a plan for reorganization under federal bankruptcy laws. Hamilton said Inslaw hoped to submit its reorganization plan before the end of the year.

Inslaw filed for bankruptcy in February 1985 after the Department of Justice stopped payment on the contract for the case-tracking software, contending that Inslaw had not lived up to the contract. Inslaw then sued the government, claiming that bias by Justice Department officials had interfered with the contract.

The case turned on two questions: whether Justice Department officials were biased against Inslaw and whether the department used advanced versions of Inslaw's software without paying the company.

The central figure in Inslaw's charges was C. Madison Brewer III, who oversaw the Promis contract for the Justice Department's executive office for U.S. attorneys. Brewer was formerly general counsel for Inslaw, but left the company in 1976 to go to the Justice Department.

Inslaw contended that Brewer was fired; the government said he resigned. But Bason ruled, "It is simply impossible for this court to accept Mr. Brewer's testimony that he didn't know he was being fired. . . . It's not the sort of thing one can have a misunderstanding about."

As a result, Bason said, "Mr. Brewer, believing he had been wrongfully discharged by Mr. Hamilton and Inslaw, developed an intense and abiding hatred for Mr. Hamilton and Inslaw. . . . Mr. Brewer's actions over the course of this contract, it seems to me, just shouted bias."

Bason ruled that Brewer made several attempts to break the contract between Inslaw and the department, and that Brewer's assistant and the contracting officer directly involved with Inslaw "were infected with this poisonous attitude by Mr. Brewer, and they aided and assisted him."

Bason said the department, led by Brewer, improperly claimed that enhanced versions of Promis, developed by Inslaw outside the government, belonged to the department and could be used and distributed any way the department desired.

The judge ruled that while the original version of Promis was in the public domain because it had been developed for the government, later versions belonged to the company. "No matter how minor an enhancement to Promis might be, this court is of the view that the enhancements are subject to trade protection," Bason said.

As a result, he said, the Department of Justice's use of the enhanced software in 45 U.S. attorneys' offices beyond the 20 specified in the original contract violated Inslaw's rights.

Bason likened Inslaw's decision to let the department use the advanced version of the software on a trial basis to an automobile dealer allowing a customer to use a high-quality loaner car while waiting for delivery of another model. "So the customer drives off with the car and the dealer never hears from him again," the judge said. "I really think that's what the Department of Justice has done in this case."

"The Department of Justice took, converted, stole Inslaw's enhanced Promis by trickery, fraud and deceit," the judge ruled. "It would have amounted to corporate suicide for Inslaw to have allowed the Department of Justice to have unlimited rights to those enhancements."

Bason said the government failed to negotiate in good faith with the company about a settlement of the dispute and "engaged in an outrageous, deceitful, fraudulent game of cat and mouse demonstrating contempt for the law and any principle of fair dealing."

The Washington Post

BUSINESS

SUNDAY, MARCH 29, 1987

Justice Embroiled In Database Suit

Inslaw Charges Former Employe Helped Scuttle Major Contract

By Mark Potts
Washington Post Staff Writer

Inslaw Inc. is a uniquely Washington company.

It began life in 1974 as the nonprofit Institute for Law and Social Research, developing a computer program for the Justice Department's Law Enforcement Assistance Administration to track the progress of cases through the criminal justice system.

Over time, the project, known as PROMIS, became a widely praised statistical database. With the computer program, a prosecutor's office could automate such housekeeping tasks as keeping track of the timetable of a case, automatically notifying attorneys involved, and keeping a record of the reasons cases are won, lost or dismissed.

PROMIS became a star at LEAA. Many of the political pronouncements on national crime in the 1970s were based on data gathered by PROMIS. The program won praise from the Ford, Carter and Reagan administrations alike.

One fan was Attorney General Edwin Meese III. In an April 1981 speech, when he was special counselor to the president, Meese told a group of local, state and federal law enforcement officials that "what the PROMIS program and what Inslaw has done provides one of the greatest opportunities for success in the future, because it has to do with good planning and good use of management information."

Soon after, LEAA was dissolved by the Reagan administration. At the urging of top LEAA officials, however, PROMIS lived on. The institute was incorporated as Inslaw to market PROMIS software to law enforcement agencies.

With offices in downtown Washington, Inslaw spent $1 million on improvements to PROMIS over the next few months, according to William Hamilton, the company's president and cofounder.

By March 1982, the company won its first big contract—a $10 million, three-year agreement with the Justice Department to install PROMIS in the offices of the nation's 94 U.S. attorneys. Inslaw seemed on its way to what one of its lawyers later described as potentially a "several hundred million dollar company."

But things didn't work out that way. Inslaw is now in bankruptcy and locked in an acrimonious court fight with the Justice Department. The department claims the company defaulted on its contract by failing to install PROMIS on schedule and overcharging the government. It also accuses the company of illegally attempting to sell software developed under government contract.

Inslaw tells a different story. Its executives claim Inslaw is the victim of a personal vendetta by a former Inslaw employe who oversaw the contract for the Justice Department and by former deputy attorney general D. Lowell Jensen, now a federal judge, who developed a similar but commercially unsuccessful case-tracking system during the 1970s.

The company claims the vendetta has influenced other Justice Department officials, preventing Inslaw from reaching a settlement with the department and disrupting its bankruptcy case.

The government denies the charges, and Jensen and other officials accused by the company did not return phone calls seeking comment.

Federal Bankruptcy Judge George Bason Jr. has ruled that "the motivation of the Jus-

See INSLAW, H2, Col. 1

Legal Data Firm Fights Government Over System for Tracking Court Cases

INSLAW, From H1

tice Department is highly suspect." And earlier this month, Bason took the highly unusual step of temporarily removing control of the case from the office of the U.S. bankruptcy trustee, saying he feared that the trustee's position could be compromised by interference from the Justice Department.

The subsequent legal fight has lined up some big names in the legal community on both sides of the issue.

Inslaw allies include a number of former high-ranking Justice Department and LEAA officials, who have gone to the department on the company's behalf. One ally is former attorney general Elliot Richardson, who serves as a special counsel to the company. "I'm convinced they've not had a fair shake," Richardson said recently. "On the contrary, they've been the victim of, at best, bureaucratic stonewalling, and at worst bad faith."

Washington attorney Charles Work, a former president of the D.C. Bar Association who served as deputy administrator of LEAA when PROMIS was being developed, said: "It is truly an offensive, outrageous situation that the Department of Justice has created here, and I do not understand why it has happened. I do not understand why an organization I considered a great resource to the American criminal justice system has been decimated by a former employe, and I do not understand why the Department of Justice, as an entity, has let that happen."

Inslaw's contract called for the installation of an enhanced version of PROMIS on minicomputers at the 20 largest U.S. attorney's offices, and on Lanier word-processing equipment at the 74 other offices.

The deal seemed jinxed from the start. Even before it won the contract, the company was arguing with Justice Department officials that it would be difficult to modify the program to run on machines built primarily for word processing. According to Hamilton, word processors were "a totally inhospitable and inefficient habitat for the software." As a result, he said, development of the word-processing software lagged behind the rest of the project.

Another dispute broke out two weeks after Inslaw won the contract. The company asked the Justice Department for a ruling on whether it could sell a version of PROMIS to other customers, on the grounds that the modifications made by the company in the program over the previous year had changed it significantly from the system developed when Inslaw was receiving federal funds through LEAA.

Hamilton said C. Madison "Brick" Brewer, the deputy director of the executive office for U.S. attorneys, which was administering the contract, "raised holy hell" about the suggestion.

Brewer was a former Inslaw employe. Between November 1974 and May 1976, Brewer had been general counsel of the institute. According to court papers, he was "dismissed for cause."

Attempts to reach Brewer for comment on Inslaw were unavailing.

The Justice Department will not say why Brewer was allowed authority over a contract involving a company from which he had been fired. But Justice Department officials did remove him from the argument over whether Inslaw could sell the software. That dispute appeared to be resolved a few months later, when a Justice lawyer gave the department an opinion that Inslaw could market the enhanced version of PROMIS to other customers. Brewer continued his other supervisory roles over PROMIS.

Another of Inslaw's problems with the Justice Department stemmed from delays in the implementation of the minicomputer version of PROMIS, which Hamilton says was held up through the latter half of 1982 because the Justice Department had not yet decided what computer system to buy. In the meantime, PROMIS was run on a central computer system, accessible by the U.S. attorney's offices through remote terminals.

In late 1982, the Justice Department, apparently frustrated by the slow speed of the implementation of PROMIS, asked that Inslaw turn over to it the latest version of the software.

The company balked, saying it would do so only if Justice rewrote the contract to reflect the earlier opinion that the company had permission to market the program to others. But the department refused.

At that point, Hamilton said he believed Brewer was blocking the contract modification, and he began complaining to department officials about Brewer's involvement in the Inslaw contract.

Hamilton visited Brewer's boss, William Tyson, director of the Justice Department's executive office for U.S. attorneys, in May 1983, and said he found him sympathetic to his complaints about Brewer. But according to an affidavit by Hamilton in the bankruptcy case, Tyson told the Inslaw president that Brewer "was not Inslaw's only problem."

"Mr. Tyson went on to explain that there was a 'presidential appointee in the current administration' who was so antagonistic to PROMIS and Inslaw that the very survival of the nationwide PROMIS installation project was in jeopardy," according to the affidavit. "Mr. Tyson said further that he had had to maneuver to keep the unnamed 'presidential appointee' away from meetings of the United States attorneys in order to keep the 'presidential appointee' from poisoning the well for the PROMIS project."

Tyson did not elaborate, and Hamilton says he was unable to figure out who Tyson was talking about until two years later. Tyson could not be reached for comment.

Brewer continued to oversee the Inslaw contract. In court documents responding to Inslaw's suit, the Justice Department has denied repeatedly that Brewer was biased against the company.

Nevertheless, the disagreements between Inslaw and the Justice Department continued. In June 1983, the Justice Department held back about $1 million in payments to the company, claiming that there had been cost overruns on the version that was being run on the central computer pending installation of minicomputers in the U.S. attorneys' offices. When Inslaw complained, some of the money was released, but then the cycle began again.

There were other disputes as well. In early 1984, the government held the company in default because of the delays in converting PROMIS to word processors. It then canceled that portion of the contract. Inslaw subsequently laid off one-third of its 180 employes.

At times, Hamilton says, Inslaw thought about breaking the contract. But because the Justice Department accounted for more than 70 percent of the company's business, Inslaw couldn't afford to do it. "We were in a Catch-22 situation," Hamilton said.

Instead, the company tried to bring pressure to bear on the Justice Department to iron out the contract problems.

Beginning in late 1983, Richard-

BY ELLSWORTH J. DAVIS—THE WASHINGTON POST

Inslaw's William Hamilton says firm has kept going, "but it's been a struggle."

son and other former Justice Department officials sympathetic to the company began visiting the department to complain about Brewer and to attempt to settle Inslaw's problems.

But their efforts didn't seem to help. The Justice Department officials they visited "would seem to be receptive enough at the time—friendly, you know, courteous," Richardson said. "But the results, I think I would have to say, they were characterized by long delays and lack of responsiveness on the merits. . . . I never got straight or convincing answers to the contentions we made about Inslaw."

In February 1985, with the Justice Department holding back several million dollars in payments, Inslaw filed for protection from its creditors under Chapter 11 of the federal bankruptcy code.

Despite the protection of the bankruptcy filing, Inslaw's problems continued.

Negotiations with the Justice Department over the alleged overcharges foundered. And the company fought to keep Justice from being listed as a creditor, arguing that the financial information the department could obtain as a creditor might give it an unfair advantage in the negotiations.

Bankruptcy Judge Bason agreed, ordering in July 1985 that the Justice Department be barred from access to Inslaw customer lists and financial documents being held by the U.S. bankruptcy trustee.

"The court believes the motivation of the Justice Department is extremely suspect," Bason said in a strongly worded order. "It appears to the court that the Department of Justice seeks the information for the purpose of gaining leverage in its pending contract dispute with the debtor . . . and possibly because of a personal vendetta by a former employe of the debtor who is now an employe of the Department of Justice."

Inslaw, in the meantime, continued to try to plead its case to the higher reaches of the Justice Department, including a letter to Meese from former LEAA Administrator Donald Santarelli, an advisor to the company. Meese did not respond.

Richardson paid visits to Jensen, then the department's No. 2 official, in March and December 1985 to complain about Brewer and Inslaw's problems with the department. Jensen has said he saw no conflict involving Brewer.

Last summer, in a written response to Sen. Paul Simon (D-Ill.) during the confirmation hearing on his federal judgeship, Jensen said, "I am aware that Inslaw claims that Mr. Brewer was biased against them, but I have never seen any evidence that any such bias, if it exists, has affected our handling of the Inslaw contract."

Inslaw changed law firms in early 1986, and Hamilton says that in reviewing the case with the new lawyers, he concluded that Brewer might not be the only one at the Justice Department with a reason for bias against Inslaw. Recalling the two-year-old statement that a higher-level Justice Department official was biased against the company, Hamilton began to wonder about Jensen.

During the 1970s, when Inslaw was developing PROMIS, Jensen, then district attorney in Alameda County in northern California, developed his own computerized case-tracking system, DALITE, and tried to market it against PROMIS.

Jensen didn't have much success—today, Alameda County is the only major prosecutor's office using DALITE—but Hamilton said Jensen had continued to "disparage" PROMIS in a variety of forums, including the December 1985 meeting with Richardson.

Jensen has said he has no financial interest in DALITE. He declined to return a reporter's phone call seeking comment on Inslaw.

Last June, Inslaw sued the government, alleging that Jensen and Brewer's bias against the company helped push it into bankruptcy. The suit, filed as an "adversary proceeding" in bankruptcy court, also alleged that the Justice Department had hindered Inslaw's efforts to reorganize under bankruptcy laws by negotiating in bad faith.

In its answer to the suit, the government denied the charges and said that Inslaw's problems were strictly the result of the company's inability to live up to the terms of its contract.

Trial in the suit, which currently is scheduled for July, has been delayed by a number of continuing disagreements between Inslaw and the Justice Department.

On Friday, Bason postponed until late May a hearing into a request by Inslaw that the Justice Department somehow be forced to handle the case and negotiations on a settlement without interference from

See INSLAW, H3, Col. 1

ELLIOT RICHARDSON
... "they've not had a fair shake"

INSLAW, From H2

department officials, such as Brewer, with a possible stake in the case.

Inslaw requested the postponement after a federal bankrupcy judge recanted the testimony he had given a few days earlier that he was aware of an attempt by the Justice Department to force the company to liquidate. The company also said that a Justice Department official had declined to answer questions in a deposition on the case because he feared he would be fired. Because of those developments, Inslaw said it needed more time to prepare its case alleging interference.

Inslaw has continued to operate during the protracted bankruptcy process, relying on contracts to provide case-tracking software to a variety of customers ranging from local and state governments to foreign law-enforcement officials and Aetna Life & Casualty Co.

Hamilton says the company has enough business to keep going, "but it's always a struggle."

And for all the controversy, PROMIS seems to remain a popular program. Over Inslaw's objections, the Justice Department has been expanding the computer-based PROMIS system beyond the 20 offices for which it was originally contracted.

Law enforcement and even some Justice Department officials continue to praise the system, and it has been credited with helping to collect more than $250 million in previously uncollected fines and fees in its first full year of operation.

"Inslaw has done some truly seminal work in the field," Work said. "The criminal justice research that their systems were responsible for has led to some very interesting reforms and improvements. I just don't understand how the Justice Department can ignore those contributions through the years and let them go down the drain."

Memorandum

Subject

Allegations of Misconduct on the Part of Anthony Pasciuto, Executive Office for U.S. Trustees

Date

DEC 18 1987

To

Arnold I. Burns
Deputy Attorney General
Att'n: Randy Levine

From

Signed Michael E. Shaheen, Jr.

Michael E. Shaheen Jr.
Counsel
Office of Professional Responsibility

Pursuant to a July, 1987 referral from your Office, we have conducted an investigation into allegations involving Anthony Pasciuto, the Deputy Director for Administration, Executive Office for U.S. Trustees (EOUST). This memorandum constitutes a report of that investigation.

Background

On March 17, 1987, Mr. Pasciuto met with William Hamilton, president of Inslaw, Inc.; Nancy Hamilton, his wife and the assistant to the president of Inslaw, Inc.; and, an acquaintance, of both Mr. Pasciuto and the Hamiltons, Mark Cunniff, at the Mayflower Hotel in Washington for breakfast. Inslaw, Inc. had filed for bankruptcy under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Columbia on February 7, 1985, and has been involved in litigation with the Department of Justice since June 10, 1986, when it filed a complaint in bankruptcy court for declaratory and injunctive relief on the grounds that the Department of Justice had violated an automatic bankruptcy stay. We understand that there is also a dispute pending before the Department of Transportation Contract Appeals Board.[1/]

Mr. Pasciuto has testified extensively during the Inslaw litigation about the matters that he discussed with the Hamiltons at their breakfast. Transcripts of his March 26, 1987 deposition, and of his testimony at proceedings (captioned a "Hearing of Debtor's Application for Court Assistance to Obtain Independent Handling of the Case") conducted on June 1 and 2, 1987, before Bankruptcy Judge George Bason, are attached at Tab A. In summary, he testified in a disjointed and rambling fashion that

1/ Because the Department of Justice has no Board of Contract Appeals, the Department of Transportation Contract Appeals Board handles its contract appeals.

at the breakfast meeting he told the Hamiltons that William White, the United States Trustee for the Eastern District of Virginia, had complained to him that Thomas Stanton, Director, EOUST, had pressured him to convert or dismiss the Inslaw case and that, when White resisted, Stanton took punitive action against White by denying his office administrative and budgetary support. Mr. Pasciuto, at the trial and in his deposition, testified further that he had no knowledge of any pressure to convert or dismiss the case, despite his other, seemingly contradictory, testimony. At the June 1 and 2 proceedings, after the Hamiltons revealed for the first time what Mr. Pasciuto had allegedly told them at the breakfast meeting, Mr. Pasciuto testified that his statements to the Hamiltons were fabrications motivated by a desire to injure Mr. Stanton in revenge for Stanton's having delayed a desired promotion to Pasciuto.

The Allegations

Subsequent to your referral of this matter, Mr. Stanton delivered to us an analysis of the alleged misconduct on Mr. Pasciuto's part. This analysis is attached at Tab B. Mr. Stanton raised four allegations: that Mr. Pasciuto violated 28 C.F.R. §45.735-2, which delineates the basic policy as to departmental employees' conduct; that he violated 28 C.F.R. §45.735-10, and Executive Order 11222, which prohibit the improper use of official information; that he possibly violated 18 U.S.C. §210, which addresses offers to procure appointive office; and, that he concealed material facts from his superiors and a departmental attorney. Mr. Stanton also raised a concern about the large amount of time and money that was expended as a result of Mr. Pasciuto's actions.

Discussion

28 C.F.R. §45.735-2

Mr. Stanton's analysis includes allegations that Pasciuto violated 28 C.F.R. §45.735-2 by meeting with the Hamiltons, principals in Inslaw, Inc., a company in a chapter 11 proceeding with a suit against the government, that he met with them with the express purpose of damaging his superior, Mr. Stanton, and that as a result of his disclosures at the proceedings of June 1 and 2, the court was able to criticize Mr. Stanton and the Department of Justice severely in open court, which the media prominently reported.

Mr. Pasciuto has acknowledged to us that he exercised very poor judgment by meeting with the Hamiltons on March 17, 1987. Our review of the transcripts of the deposition and hearing, and our interviews of Mr. Pasciuto and others, indicate that Mr. Pasciuto met with the Hamiltons without authorization and without

advising his superiors in advance. Although he stated during the hearing that he intended to harm his superior, Mr. Stanton, in some way at the meeting, he told us that his initial decision to go to the meeting was based on his friendship with Mr. Cunniff. Mr. Cunniff had arranged the meeting ostensibly to help Mr. Pasciuto in his efforts at securing an appointment as an Assistant United States Trustee (AUST) in Albany, New York, a position that he had been pursuing for some time. According to Pasciuto, Cunniff was aware that he felt frustrated by the lack of a recommendation for the position by Mr. Stanton, and represented to him that he was trying to help him in that regard by having him talk to the Hamiltons. Pasciuto said that at first he balked at his friend's request, but Cunniff continued to pressure him and he finally agreed to meet with the Hamiltons as an accommodation to him, but with the understanding that the Hamiltons were only interested in discussing the organization of EOUST with him. Mr. Pasciuto also said that at the time of Cunniff's call, he was aware that Inslaw had filed for bankruptcy under Chapter 11, but not that the Department of Justice was engaged in litigation with the company.

28 C.F.R. §45.735-10
Executive Order No. 11222

It is alleged that although Pasciuto was aware that the Hamiltons wanted to get information from him to use in their litigation with the department, he gave them official non-public information anyway. The information which he conveyed included an assertion that Inslaw had been "blacklisted" in DOJ.

Aside from the fact that Mr. Pasciuto may have had constructive knowledge of all official, non-public information in EOUST as an official there, he did not, as a practical matter, come across much information of that nature in the exercise of his largely administrative duties. His interview and testimony indicate that he only told the Hamiltons what he had learned from hearsay, gossip, and innuendo. He further admitted later under oath that he had exaggerated or fabricated much of what he told them. As to the "blacklisting" reference, Pasciuto acknowledged saying that he had made such a comment, but testified that it had only been his own assessment that such a determination had been made at Justice. Accordingly, we do not find that Pasciuto made any improper disclosures of official information. Nonetheless, his testimony at the hearing about his exaggerated or fabricated statements on March 17 allowed subsequent impeachment testimony by Mrs. Hamilton about those statements. The effect of their respective testimony became apparent when Judge Bason, in a decision announced on June 12, 1987, found that Mr. Stanton conspired with C. Madison Brewer, an official of the Executive Office for United States Attorneys, to attempt to convert

prematurely Inslaw's Chapter 11 reorganization proceedings to a liquidation under Chapter 7. The bankruptcy court, in its ruling, called Mr. Pasciuto's testimony, and Mrs. Hamilton's testimony about Pasciuto's statements at the breakfast meeting, "corroborative".[2/]

18 U.S.C. §210

Mr. Stanton further alleged that Mr. Pasciuto committed a possible violation of 18 U.S.C. §210, in that he was offered and expected a quid pro quo for his agreement to meet with the Hamiltons.

We found no evidence that Mr. Pasciuto engaged in any conduct that constituted a violation of this statute. However, he did admit to us that he engaged in a substantial effort of lobbying members of the judiciary and the private bar to get recommendations for an appointment to the AUST position in Albany. In this regard, Pasciuto testified additionally that he and his friend, Mr. Cunniff, discussed at length prior to the breakfast meeting the possibility that the Hamiltons could help him get the Albany AUST appointment.

Alleged Lack of Candor

Mr. Stanton has also alleged that Mr. Pasciuto has forfeited the trust of the Department of Justice by concealing material facts from his superiors and from an attorney for the department in that he concealed the fact of the March 17 meeting until after the deposition, and that even after he revealed the fact of the meeting to Mr. Cooper, he misrepresented what had occurred.

As indicated in Mr. Stanton's analysis, Dean Cooper, the Civil Division trial counsel in Inslaw, asserted in court on June 2, 1987, that a portion of Pasciuto's testimony that day concerning the breakfast meeting with the Hamiltons was "far different" from what Pasciuto had told him in their previous meetings. Mr. Cooper's assertion occurred after examination of Pasciuto had concluded. During direct examination, Inslaw counsel attempted to impeach him with notes taken by Mrs. Hamilton during the March 17 meeting. A typewritten version of these notes is attached at Tab D.

2/ The Civil Division has interpreted the use of the term "corroborative" to mean that the judge did not directly rely upon Pasciuto's testimony in his findings.

We questioned Pasciuto specifically on the issue of his candor with Mr. Cooper, Lauren Bloom, (Mr. Cooper's Civil division co-counsel), and his EOUST superiors as to what he discussed with the Hamiltons. He related the following. After the March 17 meeting, he received a number of phone calls from the Hamiltons and their counsel, and thereafter a subpoena on March 24 for a deposition on March 26.[3/] On receipt of the subpoena, he went to Barbara O'Connor, Senior Counsel at EOUST, to advise her and seek her counsel. Ms. O'Connor, he said, told him that others in EOUST had also received notices, and that she was unaware of any reason why Pasciuto had gotten his. Thereafter, he attended the deposition where Ms. Bloom was present as government counsel. Pasciuto said that he received no pre-deposition preparation from Ms. O'Connor, Ms. Bloom, or any other departmental attorney involved in the litigation; however, he voluntarily told neither Ms. O'Connor nor Ms. Bloom about the breakfast meeting on either occasion.

After the completion of the deposition, Mr. Pasciuto told counsel for Inslaw that he feared for his job and that he wanted to talk to them about it. Ms. Bloom, who said that Pasciuto's statement caught her completely off guard, objected to his meeting with Inslaw counsel without government counsel present, and the meeting did not take place. Following the deposition, Ms. Bloom asked Pasciuto what his comment to Inslaw counsel had meant, but he offered no good explanation, nor did he take that opportunity to tell her of the March 17 meeting. Mr. Pasciuto thereafter received a call from Mr. Cooper, who asked him about his post-deposition comments to Inslaw counsel, which Ms. Bloom had related to him. According to Cooper, he asked Pasciuto whether Mr. Stanton had intimidated him in any way, to which Pasciuto replied no. Pasciuto did refer to a feud between the two, but said nothing more about anything else.

Pasciuto testified on June 2 that the reasons he said to Inslaw counsel that he feared for his job were, first, that he had met with the Hamiltons on March 17 and it was obvious to him that they were pursuing the information that he had furnished to them at the time by conducting discovery, and, second, that it was further obvious that they had been receiving information from Mr. Cunniff that he had been feeding to him piecemeal for an extended period of time.

Pasciuto's next contact with Cooper occurred when Cooper called him to advise that Inslaw wanted to depose him further, on May 4, 1987, and that he and Pasciuto needed to meet in advance of the scheduled deposition to prepare. The Inslaw subpoena requested a number of documents which the plaintiff seemed to think Pasciuto had. On April 28, Cooper and a Civil Division

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3/ Pasciuto also learned on the 24th that Mr. Stanton had signed the recommendation for his AUST position and had forwarded it to the appropriate departmental official for action.

paralegal met with Pasciuto to discuss the request. It was during this meeting that Pasciuto first advised Cooper of the breakfast meeting of March 17. Mr. Cooper's notes from that meeting are attached at Tab E; the paralegal took notes, but was unable to furnish them. Mr. Cooper's notes and his interview statement indicate that what Pasciuto told him on April 28 about his conversation with the Hamiltons dealt primarily with his problems with Stanton in securing the AUST position and the management of EOUST. Cooper said that Pasciuto said nothing about any references to William White's supposed problems with Stanton, or pressure by Stanton to convert the Inslaw bankruptcy filing to a Chapter 7 liquidation proceeding, which he made to the Hamiltons. However, he did say that he had suggested to them that they contact Mr. White because he may have had some information about Inslaw in the Southern District of New York. Cooper also said that although Mr. Pasciuto told him that Mr. Cunniff had represented in a phone call to him that the Hamiltons were very influential, Pasciuto repeatedly assured him that he had said nothing and done nothing on March 17 at the meeting.

Pasciuto acknowledged that he did not mention to Cooper that he had met with several persons in New York in December, 1986 and later, in an attempt to muster support for his AUST appointment, including Harry Jones, the United States Trustee in the Southern District of New York, Elliott Lumbard, Esq., a private practitioner, Cornelius Blacksnear, United States Bankruptcy Judge in the Southern District of New York, and Judge Lawrence W. Pierce of the United States Court of Appeals for the Second Circuit.

When it became apparent during the meeting that Mr. Pasciuto had searched his files unsuccessfully for the documents that Inslaw sought, Mr. Cooper advised Inslaw, which then announced that it did not wish to proceed with the deposition without the documents. Although no deposition occurred on May 4, Pasciuto said that Mr. Cunniff or one of his associates called him to say that Mrs. Hamilton wanted to speak with him, but he refused to agree to a call. The following day, Mrs. Hamilton called Pasciuto at his office, but he would not accept the call. On May 6, according to Pasciuto, Michael J. Lightfoot, counsel for Inslaw, called him at home to try to convince him to call Elliott Richardson, also counsel for Inslaw, about getting "protection" from any possible retaliation that he might be exposed to for disclosing additional information which Inslaw was convinced he had, but had not yet disclosed. Pasciuto contacted Cooper to apprise him of Lightfoot's call, and Cooper called Lightfoot to protest. Cooper said that Pasciuto did not mention anything about the breakfast meeting to him at that point either.

On May 28, 1987, Pasciuto met with Cooper and Bloom to discuss his upcoming testimony in the "independent handling" proceedings on June 1 and 2. Cooper told Pasciuto that during

his testimony he wanted to develop the matter of the phone calls that Pasciuto had received from the Hamiltons and their counsel wherein they tried to persuade him to meet with them or Mr. Richardson. He said he tried to impress on Mr. Pasciuto the importance of "sticking to the facts" in that regard. Neither attorney remembered Pasciuto saying anything then about the details of the breakfast meeting. Cooper suggested at that time that Pasciuto meet with Stanton to apprise him of the March 17 meeting. Thereafter, a short time before trial, Pasciuto advised Stanton for the first time that he had met with the Hamiltons.

Conclusions

Mr. Pasciuto exercised atrocious judgment by meeting with the Hamiltons on March 17, 1987. Although he said that he was unaware that the Department of Justice was involved in litigation with them at the time, he did admit to knowing that Inslaw, Inc. had filed for bankruptcy prior to the meeting. Moreover, by his own admission, he was aware of the controversy that had arisen previously in the department, particularly EOUSA, involving Inslaw, and should have known of the particular peril that may have attended any such meeting.

According to Mr. Pasciuto, he decided to attend the meeting as an accommodation to Mr. Cunniff. However, he has advised us further and testified that he and his friend specifically discussed before the meeting the Hamiltons' influence and the possibility that they could assist Pasciuto in his quest for an appointive position. Mr. Pasciuto has offered various explanations, both in our interviews and in his testimony, why he made the disclosures, including job-related stress and sympathy for the Hamiltons' "plight". It is our conclusion that he was disposed to meet with anyone whom he thought could assist him in securing the AUST position and that he did not balk for long when his friend proposed the meeting, despite his position in EOUST, which had an official role in the bankruptcy proceedings.

The record is not altogether clear on what disclosures Pasciuto made at the meeting. When confronted with the statements that he allegedly made by Inslaw counsel during the June 1 and 2 proceedings, he acknowledged making some of them, but did so qualifiedly. Others he denied making. Mrs. Hamilton's impeaching testimony, even assuming that it was somewhat tainted by her pro-Inslaw bias, tends to indicate that Pasciuto disclosed enough information to trigger a flurry of subpoenaes of EOUST personnel and others in the department for

depositions and, later, appearances and testimony in the "independent handling" proceedings.[4] Based on the evidence adduced, Judge Bason ruled on June 12 in a manner that was highly critical of the Department of Justice and Mr. Stanton. In his remarks on that day, he stated that he had "taken into account the testimony of Mr. Pasciuto and the conversation that Mr. Pasciuto had with Mr. and Mrs. Hamilton ..." and found that the "Pasciuto and Nancy Hamilton testimony corroborates the other evidence [that the U.S. Trustee's office would actively seek to convert Inslaw to Chapter 7] and I do rely on their testimony as strongly corroborative of that other evidence."

Based on the interviews during our inquiry,

we conclude that the bankruptcy court's remarks were unsubstantiated and unfair. Although the blame for this injudicious result appears to rest squarely on the court's shoulders, it is clear that the environment for his ruling was created largely because of Pasciuto's own totally irresponsible statements and actions.

With respect to the allegation that Pasciuto may have violated the statutory proscription against procuring appointive office, we uncovered insufficient evidence of such a violation to warrant referral of this accusation to the Public Integrity Section for consideration whether a criminal investigation is appropriate. Moreover, the practice of "lobbying" for AUST positions, as Mr. Pasciuto did, seems to be normal among applicants for those positions and acceptable to those who fill them.

The final allegation which we have considered concerns Mr. Pasciuto's claimed failure to advise his superiors or Civil Division counsel of the fact that he met with the Hamiltons, or the substance of their conversation. If Pasciuto's answers to Inslaw counsel's questions about what was discussed on March 17 had been unequivocal, it would be easier to conclude that he withheld information from counsel, as Mr. Cooper stated or suggested after Pasciuto finished his testimony on June 2. However, Pasciuto in fact equivocated on nearly every answer posed, which in our view had the effect of undermining Cooper's statement that Pasciuto's testimony was "far different" from what he had previously told Cooper. At the same time, it is clear

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[4] Even discounted for bias, Mrs. Hamilton's testimony has the ring of truth to it. She claimed that not only did Pasciuto, in a narrative manner, advise the Hamiltons of information that came into his possession, but he further suggested, by name, Department witnesses they should dispose to obtain first-hand the information he was furnishing and went so far as to suggest specific questions those witnesses should be asked to elicit this information.

that Mr. Pasciuto did not tell his immediate superior, Mr. Stanton, about the breakfast meeting at all until a very short time before the independent handling proceedings, and then only at Mr. Cooper's suggestion. Thus, we conclude that there was a lack of candor on his part as to Mr. Stanton, and neither candor nor lack of candor on his part as to Mr. Cooper and Ms. Bloom, although he did have ample opportunity to be candid voluntarily a number of times before the proceedings of June 1 and 2 and failed to do so.

Recommendation

We recommend that Mr. Pasciuto be terminated from his position as a Department of Justice employee. Our recommendation is based principally on his decision to harm his superior, Mr. Stanton, in any way that he could, even to the extent of providing what he has acknowleged to be false statements to the Hamiltons on March 17, 1987. Mr. Pasciuto's recantation notwithstanding, Judge Bason relied on testimony about his remarks at the breakfast meeting to support his conclusion that Mr. Stanton engaged in misconduct. We have found no evidence that this conclusion was at all correct. Nonetheless, it does exist and must be dealt with in further litigation. In our view, but for Mr. Pasciuto's highly irresponsible actions, the department would be in a much better litigation posture than it presently finds itself, and Mr. Stanton would not have been subjected to the personal embarrassment that the court's unjust pillorying of him has caused. Mr. Pasciuto has wholly failed to comport himself in accordance with the standard of conduct expected of an official of his position.

As always, we are available if you have any questions. Mr. Pasciuto and his counsel have asked for an opportunity to meet with you before a final decision is made in this matter. We agreed to convey that request to you.

Attachments

VENDETTA

William Hamilton was convinced that someone in the Justice Department was out to get him and to drive his company into bankruptcy. He was right.

BY
MITCHELL PACELLE
AND ROBERT SAFIAN

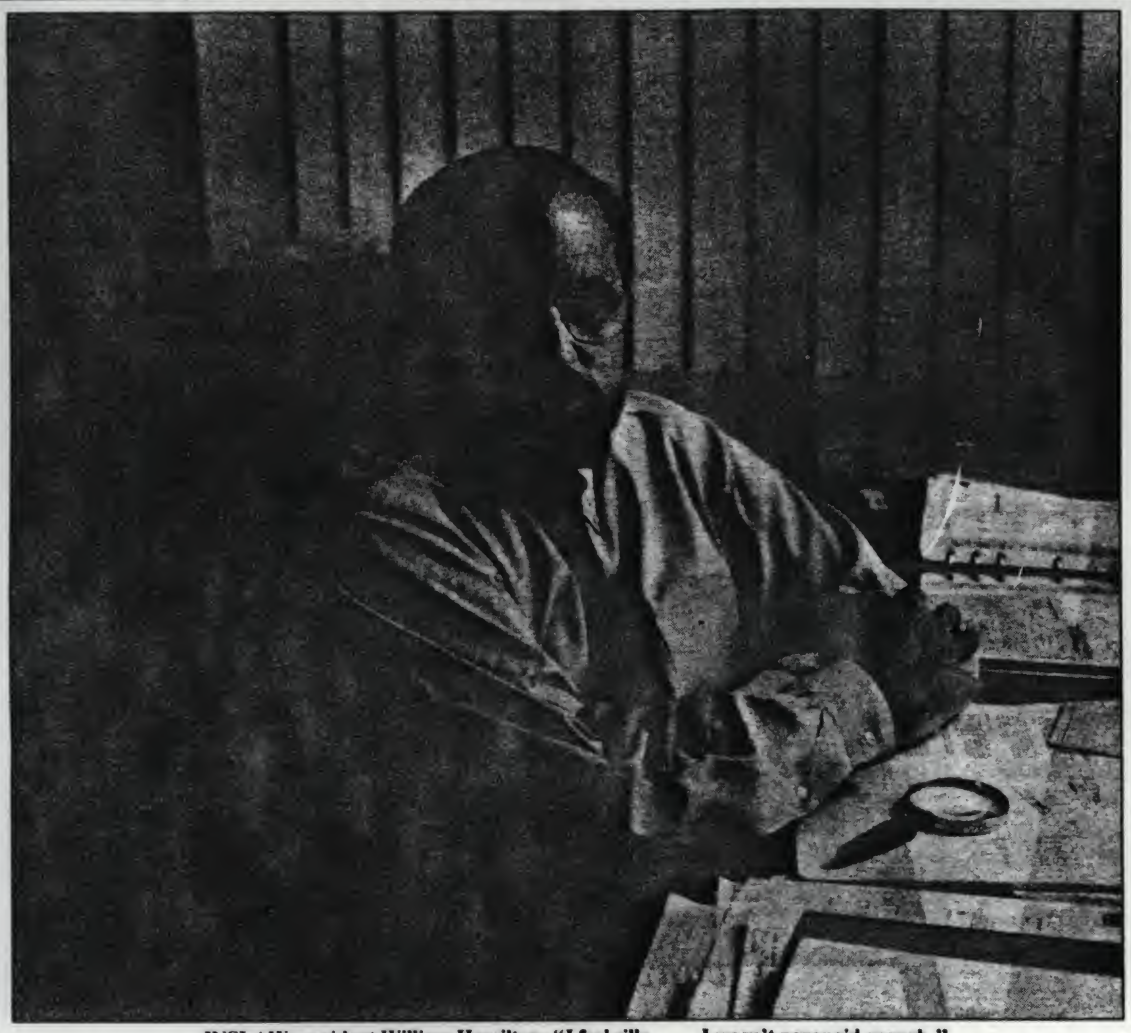
ON MONDAY, JUNE 9, 1986, THE HAMILton family went on an outing. William Hamilton, his wife, Nancy, and their six children, ages 3 to 22, piled into the family station wagon and drove to the federal courthouse in Washington, D.C. There, Hamilton filed a $30 million suit against the Department of Justice. The suit would change his life—and would come to wreak havoc in the federal government.

"It was a bittersweet kind of day," recalls Hamilton, a stocky man of 47 who is president of the nation's leading law enforcement case-management software company. Hamilton had hoped to avoid a legal battle against his most important customer. In more than 20 years of dealing with the government, says Hamilton, he had never encountered a problem that he couldn't solve without confrontation.

But this time he was stuck. Despite legal help from former attorney general Elliot Richardson, Hamilton could not budge the department.

The suit was anything but conventional. It mentioned contract law, bankruptcy law, and computer software copyrights. But its focus was an outlandish allegation of a conspiracy within Justice.

Hamilton charged that a Justice employee who held an old grudge against him had tried to drive Hamilton's company out of business by disrupting the administration of his company's $10 million contract with the department. And when he asked high-ranking Justice officials to investigate the possibility of bias, Hamilton alleged, they had ig-



INSLAW president William Hamilton: "I feel silly. . . . I wasn't paranoid enough."

nored his pleas.

The claims reeked of paranoia. Hamilton's company had gone into bankruptcy in early 1985. Hamilton, it appeared, was looking for someone other than himself to blame.

In time, however, depositions from Justice Department officials, documents, and testimony during four days of hearings and two weeks of trial would paint a far different picture. They would convince a federal bankruptcy judge that the vendetta Hamilton suspected did, in fact, exist—and that higher-ups in the department had irresponsibly refused to take account of the injustice.

Justice Department officials did not return phone calls or declined to comment on the case, citing pending litigation. But in an interview in his downtown D.C. office, Hamilton talks about his disturbing experiences with Justice. "I think, in a perverse way, I was . . . slow to catch on," he muses. He taps his foot nervously. "I feel silly," he says. "I wasn't paranoid enough."

THE RISE AND FALL OF INSLAW

Hamilton's dealings with the federal government began in 1962, when he joined the Defense Department's intelligence division, the National Security Agency. Fresh from Notre Dame University, Hamilton stayed at NSA for seven years, rising to deputy branch chief. In the process, he developed a sophisticated understanding of computers.

No sooner had the Justice Department awarded INSLAW a $10 million contract than things began to go wrong. Hamilton couldn't understand why.

By 1969 the agency's "hermetically sealed environment" made him long for "a normal life," Hamilton says, so he parlayed his computer expertise into a job in the management consulting department of Peat, Marwick, Mitchell & Co. Within a few months he started a project to develop case-tracking software for the U.S. Attorney's Office in D.C. The result—the Prosecutor's Management Information System, known as PROMIS—was widely considered the nation's first justice management software.

PROMIS so excited Hamilton that in 1971 he left Peat, Marwick to improve the software, which by contract rights belonged to the government. After 18 months as an independent contractor for the U.S. Attorney's Office in D.C., he created his own not-for-profit company called the Institute for Law and Social Research and continued to improve PROMIS with grants from the Justice Department's Law Enforcement Assistance Administration.

When LEAA was dismantled in 1981, Hamilton organized INSLAW, Inc., a private corporation, to buy out the assets of the not-for-profit company. Because it had been developed with government funding, PROMIS was in the public domain. Hamilton, however, raised private funds to refine the software and claimed the hybrid—the publicly funded software with its privately funded enhancements—as a proprietary product. He marketed the hybrid, still called PROMIS, and several derivatives to prosecutors, court systems, private attorneys, and others.

It seemed that Hamilton had gotten his big break in March 1982 when the Justice Department awarded INSLAW a three-year, $10 million contract to computerize the nation's 94 U.S. Attorney's Offices. According to the contract, INSLAW was to install the original PROMIS software, plus five additions that were in the public domain, on minicomputers in the 20 largest offices, and to develop a modified version of the software to run on word processors in the smaller offices. In the fiscal year beginning October 1, 1982, INSLAW's revenues went up about 35 percent to $7.8 million—more than half of it from the U.S. Attorney's Office contract. By 1984 INSLAW employed more than 180 people. Hamilton and his wife, Nancy, who together owned 60 percent of INSLAW, ploughed their profits back into the company. It seemed like the best investment they could make.

But the bubble burst almost immediately. The first disturbing signal from Justice came in a November 1982 letter in which the department requested that Hamilton deliver to Justice the PROMIS documentation and source codes that would allow Justice to install the system itself. He refused, contending that some of the software was private property.

Two months later Justice threatened to postpone certain payments to INSLAW. Hamilton gave in and handed over the documentation, including the hybrid software. Justice, in turn, withdrew its threat and agreed to negotiate with INSLAW for the right to use the hybrid—*if* INSLAW could prove that it was privately funded and *if* the government chose to install it.

Hamilton's troubles with Justice intensified. In July 1983 the department suspended nearly $250,000 in payments to INSLAW, claiming the company was overcharging the government for time-sharing. Finally, in February 1984, the government terminated INSLAW's contract to put PROMIS onto word processors at the smaller U.S. Attorney's Offices, a project that had been generating revenues of $200,000 to $300,000 a month, according to Hamilton.

Suddenly INSLAW's finances were in shambles. By February 7, 1985, the government had withheld payment on $1.77 million in costs and fees. INSLAW, the market leader, filed for bankruptcy. Hamilton says he was mystified. How could everything he had built fall apart so fast—and with no explanation?

Hamilton's paranoia quickly found a focus: C. Madison "Brick" Brewer, who managed the PROMIS installation for Justice. Brewer had spent most of his career in the U.S. Attorney's Office in D.C.—except for two years as general counsel of INSLAW's not-for-profit predecessor. Hamilton says he himself had fired Brewer in 1976. Brewer, he adds, is a "very amiable, pleasant guy" but did not follow through on nonlegal tasks assigned to him. Although there was no "ugly disagreement," Hamilton says, he was uneasy when he realized that he would have to deal with Brewer on the Justice contract. He worried that Brewer might hold a grudge. Now, it seemed his fears had been realized.

PHOTOGRAPHS BY JANET FRIES

THE SILENT TREATMENT

For three years, Hamilton and his changing cast of attorneys tried unsuccessfully to find someone at Justice who would listen to Hamilton's suspicions about Brewer and undertake a serious inquiry. The indifference they encountered only confirmed Hamilton's fears that someone in Justice was out to get him.

Hamilton began by asking Brewer's superiors—William Tyson, the director of the Executive Office for U.S. Attorneys, and deputy director Laurence McWhorter—to investigate. Both later testified that they spoke to Brewer but found nothing to warrant taking him off the project. The Justice procurement staff, which oversaw the PROMIS project, was equally unresponsive to requests from INSLAW's contracts attorney, Harvey Sherzer, then a partner at D.C.'s 22-lawyer Pettit & Martin and now a partner at 122-lawyer Howrey & Simon.

Early in 1983 Hamilton enlisted the help of former attorney general Elliot Richardson, a partner in the D.C. office of New York's Milbank, Tweed, Hadley & McCloy. A supporter of Hamilton's computer innovations at Justice in the 1970s, Richardson had been the chairman of the board of trustees of INSLAW's not-for-profit predecessor.

"It was important, in the circumstances, to try to find a level in the Department of Justice at which there could be some assurance, or hope, that the matter would be dealt with objectively and on the merits," explained Richardson in subsequent testimony. "That, it seemed to me, was a service that I might be able to provide." He became the biggest gun in Hamilton's arsenal of attorneys.

According to one INSLAW lawyer, however, Justice attorneys "took offense that Bill was going to people like Elliot Richardson. . . . There was the intimation that he was going over their heads, going outside of normal channels."

In fact, Richardson didn't waste time with underlings: He went right to deputy attorney general Edward Schmults, the number-two man at Justice. Schmults referred him to the assistant attorney general for administration, a position that would turn out to be a revolving door. For more than a year Richardson negotiated fruitlessly with three consecutive assistant attorneys general for administration.

After INSLAW went bankrupt, Richardson—along with well-connected Republican Donald Santarelli of D.C.'s Santarelli, Smith, Kraut & Carroccio—decided to try again with the deputy A.G. By now, the position had been assumed by D. Lowell Jensen.

The frustrating result of the March 1985 meeting with Jensen was another round of negotiations that ended when management division general counsel Janis Sposato insisted that INSLAW—which claimed Justice owed it $1.77 million—pay $680,000 *to* Justice and acknowledge the government's right to unrestricted use of the software for any federal project. Sposato also announced that the government would not pay any additional fees for software obtained under the contract.

In later testimony, Richardson described the government's offer as a blunt, " 'Screw you, Mr. Richardson.' . . . It's an offer that condemns INSLAW to death." Hamilton's bankruptcy lawyer, Charles Docter of D.C.'s six-lawyer Docter, Docter & Salus, agreed. "We concluded that the Justice Department was completely prejudiced against [Hamilton]," Docter recalls. "Mr. Brewer had marshaled the troops."

Hamilton was running out of people to complain to. He and his lawyers had approached a dozen department officials, including general counsel Sposato, many of them more than once. Santarelli had followed up his meeting with Jensen with a letter to Attorney General Edwin Meese III. No one had taken the allegations seriously enough to start an investigation.

Former attorney general Elliot Richardson: He was the biggest gun in INSLAW's arsenal of attorneys.

Richardson saw his role as finding "a level in the Department of Justice at which there could be some . . . hope that the matter would be dealt with objectively."

ENEMIES AT THE TOP?

Desperate for results, Hamilton and Richardson made another plea to deputy attorney general Jensen. The "last-ditch effort," as Richardson describes it, took place on December 4, 1985. "I told [Jensen] that I could only conclude that the performance of the department had been scandalous," said Richardson in later testimony. "I was not trying to get his view or to get him to assume responsibility . . . but only to grasp the fact that what we genuinely believed to be meritorious positions were not getting addressed at all."

Jensen's response, recalls Richardson, "was tentative and noncommittal." Jensen did mention, however, that he wasn't impressed with PROMIS.

Hamilton was disturbed. He remembered that when he introduced PROMIS in the 1970s, Jensen, then district attorney for Alameda County, California, was touting a similar case management software package he had helped develop but in which he says he had no financial interest. That Jensen would bring up his opinion of the PROMIS software made Hamilton wonder, he says, whether INSLAW had more powerful enemies than Brewer.

Jensen, now a federal district judge in San Francisco, declined comment for this article. He did, however, discuss his meeting with Richardson and Hamilton in a deposition in June. "I don't recall that I said that I was not impressed with PROMIS," he stated. "I think it was more of a relative statement in terms of whether . . . I would use PROMIS or something else [in the district attorney's office]."

Shortly after the meeting Richardson suggested a suit. Hamilton, finally convinced that Jensen would not step in and solve his problems, agreed.

Leigh Ratiner—a partner at D.C.'s Dickstein, Shapiro & Morin whom Richardson had recruited—devised a strategy to circumvent the department's sovereign immunity from fraud claims. Ratiner framed the complaint as an adversary proceeding within INSLAW's Chapter 11 reorganization, charging the government with violating the automati

Charles Work of the D.C. office of McDermott, Will & Emery: He pitched in to help his friend Hamilton.

stay provision of the bankruptcy code. By misadministering the PROMIS contract, Ratiner claimed, the department was interfering with INSLAW's efforts to reorganize.

INSLAW filed suit in June 1986, accusing Brewer of seeking revenge on Hamilton by forcing INSLAW into bankruptcy and "threatening to expand improperly" its use of INSLAW's proprietary software. The suit also accused deputy attorney general Jensen of having a "negative view" of PROMIS and failing to stop Brewer's misconduct.

If Hamilton harbored any hopes that Justice would settle once the charges were public, he was wrong. In July Ratiner met with deputy attorney general Arnold Burns, who had replaced Jensen. Burns had already received a letter from Maryland senator Charles Mathias, Jr., asking him to consider settling the INSLAW case. But once again, INSLAW was rebuffed.

Hamilton's litigation plans soon began to unravel. In October Ratiner informed Hamilton that he would be leaving Dickstein, Shapiro. (As reported in *Legal Times*, Hamilton asserts that Dickstein, Shapiro partner Leonard Garment—who has represented Attorney General Meese—forced Ratiner out in an effort to stymie the suit and shield the Justice Department from Hamilton's allegations. Garment and the firm deny the charges, and Ratiner declines comment on his departure.)

Hamilton filed suit in June 1986, charging Justice with violating the bankruptcy code. Then, with discovery beginning, he found himself with no trial counsel.

A few months later Dickstein, Shapiro dropped INSLAW. Garment says the firm had satisfied its commitment to take INSLAW up to the trial. By the time the firm pulled out, INSLAW owed $464,000 in fees.

With discovery beginning, Hamilton found himself with no trial counsel and no funds to pay one. Richardson, who is not a trial lawyer, says he shopped the case to one D.C. firm, which declined to take it. He didn't even ask his own firm, he says, because there were no litigators at Milbank, Tweed's D.C. office.

Increasingly desperate, Hamilton turned to two friends: Brian O'Neill of Santa Monica, California's seven-lawyer O'Neill & Lysaght and Michael Lightfoot of Los Angeles's seven-lawyer Talcott, Lightfoot, Vandevelde, Woehrle & Sadowski. Both agreed to come east to help with discovery on a contingency basis.

But Hamilton still had no trial counsel. As he had done repeatedly, he consulted Charles Work, one of his closest friends. A former assistant U.S. attorney in the first office Hamilton had computerized and later a deputy administrator of LEAA, Work had become a litigation partner at the D.C. office of Chicago's McDermott, Will & Emery. He offered to pitch in and recruited his partner Michael Friedlander, plus Philip Kellogg and James Lyons of D.C.'s three-lawyer Kellogg, Williams & Lyons. All worked on contingency.

A SMOKING GUN

Meanwhile Nancy Hamilton had stumbled upon a seemingly innocuous Justice Department document—a note handwritten by the contracting officer on the PROMIS project, Peter Videnieks: "JR called. Brick talked to Stanton, 'No way 11—will be 7.'"

Videnieks's note, dated February 25, 1985, just three weeks after INSLAW had filed for bankruptcy, apparently referred to a conversation with Jack Rugh, assistant to Hamilton's nemesis, Brick Brewer. As INSLAW's lawyers interpreted the note, Rugh told Videnieks that Brewer had directed William Stanton to convert INSLAW's Chapter 11 reorganization to Chapter 7 liquidation. Stanton was the director of the Justice Department's Executive Office for U.S. Trustees, the central administrative office of a then-experimental program of semi-autonomous local trustees who act as fiduciaries for bankruptcies within their regions.

The note Nancy Hamilton uncovered raised a new specter: that Brewer was compromising the impartiality of the U.S. Trustee program in an effort to block INSLAW's reorganization and wipe out the company. As director Stanton would concede in his deposition, he needed support for pending legislation to make the program permanent. The need, Hamilton and his lawyers feared, could make Stanton susceptible to pressure from officials like Brewer.

"This case scared the living daylights out of me," says bankruptcy attorney Docter of Brewer's alleged attempt to interfere with the bankruptcy process. "This is police state stuff. It's just outrageous."

Once again, Hamilton turned to the courts. On February 25, 1987, INSLAW filed an unusual petition with federal bankruptcy judge George Bason, Jr., who was overseeing INSLAW's bankruptcy and the adversary suit. Docter submitted Videniek's note as evidence that "previous efforts to seek a fair and equitable settlement have been obstructed by the behind-the-scenes involvement of the very parties who INSLAW has accused of misconduct." INSLAW's petition asked for undefined "court assistance to obtain independent handling" of its case.

In his March 11 ruling ordering an evidentiary hearing on the petition Judge Bason himself offered corroboration of INSLAW's charges. He revealed that in 1985 the U.S. trustee assigned to INSLAW's bankruptcy, William White, had asked the judge to bar White from sharing confidential information about the company with any other department employee. White, it now seemed, had been protecting himself from Justice Department pressure.

Hamilton did not have to rely on such circumstantial evidence for long. For two or three months, Maureen Cunniff, executive director of the National Association of Criminal Justice Planners and a friend of the Hamiltons, had been relaying information from a friend at the Executive Office for U.S. Trustees. The friend was deputy director for administration Anthony Pasciuto, who by his own admission did not get along with office director Stanton. Cunniff eventually convinced Pasciuto to meet the Hamiltons for breakfast at D.C.'s Mayflower Hotel on St. Patrick's Day.

That breakfast was a turning point

According to Nancy Hamilton's contemporaneous notes and her later trial testimony, Pasciuto confirmed what had first seemed to be paranoid fantasies: He said that trustee White had confided that in 1985 Stanton had pressured White to convert INSLAW's bankruptcy to Chapter 7 liquidation. Moreover, when White resisted, Stanton tried unsuccessfully to have an assistant from the U.S. Trustees office in New York take over the case and convert it. And, Pasciuto said, Cornelius Blackshear, the U.S. trustee in New York at the time of INSLAW's Chapter 11 filing, knew all about Stanton's scheme.

The Hamiltons left breakfast both shocked and excited. Their suspicions were true—and now, really for the first time, it seemed that they could prove it.

RELUCTANT WHISTLE-BLOWERS

Hamilton's lawyers set about to corroborate Pasciuto's story. On March 25 they deposed Blackshear, now a federal bankruptcy judge for the Southern District of New York. White, he stated, had told him that Stanton wanted INSLAW liquidated and had pressured White to go along. Blackshear also testified that he had heard rumors from other sources that unnamed people in the Justice Department had an interest in putting INSLAW out of business. The Hamilton team was jubilant.

Their high spirits didn't last. The very next day, in an unusual ex parte affidavit, Blackshear recanted. "I testified that William White had advised me that Tom Stanton had brought pressure on him to convert the INSLAW case [to Chapter Seven]," said Blackshear. After two conversations with White, Blackshear concluded, "I now recall that no such discussion took place."

Blackshear now explains, "After consulting with the people whom the hearsay testimony had come from, I discovered that my recollection was cloudy."

"It was like the world just collapsed around Tony [Pasciuto]," says Cunniff. "He was devastated. He was getting real concerned. He was the guy out in left field."

When Hamilton's lawyers deposed Pasciuto, he conceded that "[White] was angry about . . . the Executive Office [for U.S. Trustees'] interference in INSLAW." But he backed away when probed about Stanton's connection to the INSLAW bankruptcy. "I have to go back and work in this place," he pleaded.

Hamilton's lawyers, however, stayed with their game plan. In May and June, during four days of hearings on INSLAW's bankruptcy, they argued that the company needed court assistance to ensure the independence of the U.S. trustee handling its case.

Presented with the "No way 11—will be 7" note, Rugh testified that it referred only to his opinion of INSLAW's prospects, based on his knowledge of the company's finances. White, who now practices bankruptcy law at Alexandria, Virginia's 160-lawyer Hazel, Thomas, Fiske, Beckhorn & Hanes, denied that Stanton had pressured him to convert INSLAW's case.

Stanton vehemently denied that he wanted INSLAW liquidated. It was solely because of White's inexperience that he tried to bring an assistant trustee down from New York to take over the case, Stanton claimed. With the future of the trustee program at stake, he testified, he "didn't want the case to fail on some administrative error that would make us look bad."

Pasciuto, the Hamiltons' "Deep Throat," testified that he knew of no pressure on White to convert the INSLAW bankruptcy from Chapter 11 to Chapter 7. One of Hamilton's lawyers, Philip Kellogg, reluctantly asked Judge Bason's permission to cross-examine their own witness. In a dramatic exchange, Kellogg confronted Pasciuto with Nancy Hamilton's notes of their Mayflower breakfast. Pasciuto hemmed and hawed. He became so distraught the judge called a brief recess. But Pasciuto did not change his testimony.

VINDICATION

With the government witnesses closing ranks against Hamilton, it was far from certain that Judge Bason would see things Hamilton's way. But on June 12, the judge ruled that the government had indeed tried to force INSLAW into liquidation. He called Stanton's testimony "evasive and unbelievable" and adopted a preliminary ruling in which he had termed Stanton's actions "a clear abuse of authority, utterly improper, and most severely to be condemned and punished." Rugh's testimony, said Judge Bason, was "inherently incredible," and Judge Blackshear's recantation initiated an investigation of Brewer.

New York bankruptcy judge Blackshear takes issue with Bason's vehemence, pointing out that only the judge overseeing a bankruptcy has the power to convert the case. "If everything the parties alleged about Tom Stanton is true, you still have a 'So what?' " says Blackshear. "The trustee cannot convert anything." (Responds one New York bankruptcy partner: "The U.S. trustee is given in most cases some real deference. . . . He's there as an impartial administrator.")

GOING AFTER BREWER

The bankruptcy hearings had brought Hamilton and his lawyers a taste of victory, but only on the narrow issue of the trustee program. Justice still declined to settle the pending $30 million suit.

Judge Bason decided to split the litigation into two phases. The first would focus on Brewer's alleged bias, Justice's alleged misconduct in not removing him from the PROMIS project, and the government's alleged theft of INSLAW's proprietary software. The second (as yet unscheduled) would examine INSLAW's complaint that Justice filed a sham counterclaim against the company, engaged in bad faith negotiations, and interfered with INSLAW's business development.

In late July and early August, INSLAW attorney Michael Friedlander outlined to the judge the story Hamilton had told Justice officials for so long with so little success—a story of government conniving and manipulation orchestrated by Brick Brewer and, in Elliot Richardson's words, "complemented and allowed to run its course by ill will at the higher level," meaning former deputy attorney general Jensen.

The government's lawyers responded that the case was a simple contract dispute. Although there were certainly differences of opinion between the parties, they claimed, there was no malice or misconduct.

The high point of the trial came on July 29 when the alleged villain, Brick Brewer, took the stand. Government attorney Sandra Spooner, deputy director of commercial litigation in the civil division, zeroed in on Hamilton's basic premise: that Brewer held a grudge because he had been fired as general counsel of INSLAW's not-for-profit predecessor. Brewer testified that he had not been fired but had decided to leave.

In his cross-examination, McDermott, Will's Michael Friedlander reminded Brewer of his deposition testimony that Hamilton had "a very, very distorted view of reality" that was "mentally defective," then asked whether Brewer had disclosed this opinion when he was interviewed for the job that would put him in control of the INSLAW project. No, Brewer responded. "I saw my views about Mr. Hamilton as being totally irrelevant," he said.

Friedlander confronted Brewer with notes from an April 1982 meeting attended by Brewer, his deputy Rugh, and contracting officer Videnieks that read, in part, "Termination for convenience discussed." The subject, Friedlander contended, was the month-old PROMIS contract. Brewer testified that he did not recall the meeting and asserted that considering termination so early in the contract period was "ludicrous." (Both Rugh and Videnieks testified that they could not recall the meeting.)

Then Friedlander asked Brewer about the department's use of PROMIS following the end of INSLAW's contract in 1985. Brewer admitted that Justice had subsequently installed the hybrid in U.S. Attorney's Offices not covered by the contract. The decision was made willingly? Friedlander asked. "Yes." Knowingly? "Yes." Intentionally? "Yes."

Brewer stood firm. He testified that the department had no obligation to negotiate with INSLAW over the hybrid. The software, he insisted, had been developed with government funds and was thus in the public domain.

Former deputy attorney general D. Lowell Jensen: He listened to Hamilton's complaints but ordered no investigation.

"A very strange thing happened at the Department of Justice in response to [INSLAW's] complaints," said Judge Bason. "Absolutely nothing."

"an honest mistake." As for White, the judge concluded that he had exercised a "capacity to forget" when he denied the whole scheme.

Bason forbade anyone from the Executive Office for U.S. Trustees or the Justice Department from contacting INSLAW's trustee about the case and invited Attorney General Meese to appoint someone outside Justice to review INSLAW's dispute with the department. The judge awarded INSLAW $1,000 in compensatory damages, plus legal fees associated with the hearing, which Hamilton estimates at $250,000.

According to a Justice spokesperson, the department has not yet decided whether to act on Bason's suggestion for an independent review. However, in July the department's Office of Professional Responsibility

BASON'S BLAST

Judge Bason rendered his verdict o September 28 in a packed D.C. court room. Speaking in soft, measure tones that at times seemed to dri with sarcasm, Bason likened the Jus tice Department's behavior to that a bawling, spoiled child. There wa suppressed laughter from spectators He continued sternly, comparing Jus tice to a shyster who drives off with car dealer's loaner car and never re turns.

The department, Bason ruled, ha "engaged in an outrageous, deceitful fraudulent game of cat and mouse

PHOTOGRAPH BY AP/WIDE WORLD PHOTOS

demonstrating contempt for both the law and any principle of fair dealing." Justice "took, converted, stole INSLAW's enhanced PROMIS by trickery, fraud, deceit," he said, and its actions were "willful, wanton, deceitful."

Bason agreed that Hamilton had fired Brewer: that Brewer knew it ("It's not the sort of thing that someone can have a misunderstanding about"); and that Brewer acted on his "lust for revenge," using Rugh and Videnieks as witting accomplices. Brewer's testimony, said Bason, was "entirely colored by his intense bias and prejudice."

Contracting officer Videnieks and Brewer's assistant, Rugh, the judge decided, were "infected [by Brewer's] poisonous attitude" and by their own desires for advancement.

Judge Bason chastised Justice for its unresponsiveness to Hamilton's repeated requests for an investigation of Brewer. "A very strange thing happened at the Department of Justice in response to these complaints," said Bason. "Absolutely nothing. . . . The investigation, according to the government officials' own testimony, consisted solely of asking Mr. Brewer, 'Were you fired? Are you biased?' It is as though they were to go up to any person charged with a crime on the street and say, 'Did you steal this particular item?' or 'Did you happen to kill so-and-so?' and when he says, 'No,' that is the end of the investigation. I can't imagine that the Justice Department would solve any crimes if that is the way investigations were normally conducted."

"The failure to even begin to investigate," remarked Bason, constituted "an institutional decision by the Department of Justice consciously made at the highest level simply to ignore serious questions of ethical . . . impropriety made repeatedly by persons of unquestioned probity and integrity."

Judge Bason blasted McWhorter, Brewer's boss and friend, for having "said 'I don't remember' or 'I don't recall' or 'I don't know' something like one hundred forty-seven times" in response to deposition questions about INSLAW; he called Tyson's glowing description of Brewer's work on the INSLAW contract "so ludicrous there is no way I can believe anything the man has to say"; and he excoriated management division general counsel Sposato for "what can perhaps charitably be described as willful blindness to the obvious."

But the judge never singled out the senior officials to whom Elliot Richardson had complained, and he made only one remark about former deputy attorney general Jensen, who had been named in INSLAW's complaint. In his deposition, said Bason, Jensen "appeared to acknowledge the general principle" that it is a "bad idea" for the government to hire the former employee of a government contractor to supervise that company's government contract. But, Bason concluded, "I didn't get any hint in his testimony that he recognized that there was any possible applicability of the general principle to the case of Mr. Brewer and INSLAW."

The judge ordered Justice to pay INSLAW for the use of its software, the amount to be determined at a later hearing. (Hamilton claims standard licenses on the software will cost Justice about $5.4 million.)

The judge also barred Brewer, Rugh, and Videnieks from any further contact with INSLAW or the PROMIS project, awarded INSLAW legal fees, which Hamilton estimates at more than $1.5 million, and granted INSLAW sole ownership of the hybrid software.

Justice attorney Dean Cooper declines comment on the verdict. Amelia Brown, a Justice spokesperson, promises an appeal. "We feel that the department's conduct in this matter was lawful and proper," she says.

Brewer, in a post-verdict statement to the press, commented, "INSLAW has succeeded through a scheme of personal attacks and slander to avoid scrutiny of their performance. The ultimate losers are the taxpayers of the United States." At press time Brewer remains an associate director of the Executive Office for U.S. Attorneys.

FILLING IN THE GAPS?

Unlike an Agatha Christie novel in which the scattered clues eventually fit together and the culprits are exposed, parts of the INSLAW saga are still shrouded in mystery. Hamilton and his attorneys have unearthed no direct links between Brewer and higher-level officials. And no one at Justice has been willing to address the issue of the department's unresponsiveness to Hamilton's requests for a serious investigation of Brewer's alleged bias.

"As a former seasoned bureaucrat," says Hamilton's ex-lawyer Ratiner, a veteran of 15 years in the government, "it's very easy for me to understand how you could get into this kind of situation. It's difficult for me to understand how—once officials were informed of it—it wasn't stopped."

Hamilton is particularly puzzled. While he agrees with Judge Bason that Brewer was the linchpin of the conspiracy, Hamilton doesn't understand the indifference he and his lawyers encountered from high-level Justice officials, including Jensen. Somehow the checks and balances broke down. Hamilton says he is still searching for evidence of a wider conspiracy.

"It's a bizarre story," he admits. "I'm sure I would take it with a grain of salt if I were listening to it. The federal government just isn't supposed to work like that." □

FEDERAL COMPUTER WEEK

THE NEWSPAPER FOR SYSTEMS DECISION MAKERS IN GOVERNMENT

INFORMIX'S LAURA KING says her company plans to embrace Ada and Unix environments. /37

SEI Method Assesses Vendors

By GARY H. ANTHES

The Software Engineering Institute of Carnegie Mellon University has released its guidelines and procedures for assessing the software development capabilities of defense contractors.

The assessment method, which was developed at the request of the Air Force and with the assistance of The Mitre Corp., may be used by Pentagon procurement officers "either in the pre-solicitation qualification process, in the formal source selection process or both," according to the document released by the institute.

The assessment measures take the form of a series of questions to be answered by would-be contractors

SEE **SEI,** PAGE 4

Justice Awards Contract To Meese Associate

By PAUL McCLOSKEY and BOB BREWIN

The Justice Department has awarded Hadron Inc. a contract valued at $40 million for automated litigation support services. The contract poses some questions of propriety for the Fairfax, Va.-based company, whose chief stockholder is a long-time government and business associate of U.S. Attorney General Edwin Meese.

The five-year deal calls for a Hadron subsidiary, Acumenics Research and Technology Inc., to supply Justice's Land and Natural Resources Division with services from the organization of case materials to the design of computerized data bases for document retrieval.

Hadron's largest stockholder is Dr. Earl Brian, a venture capitalist who served with Meese as health and welfare secretary in Reagan's California gubernatorial Cabinet until 1975. Brian's undisclosed business dealings with Meese imperiled the latter's 1984 nomination as attorney general. Until acquired by Hadron in 1983. Acumenics was qualified under the Small Business Administration's 8(a) minority business program.

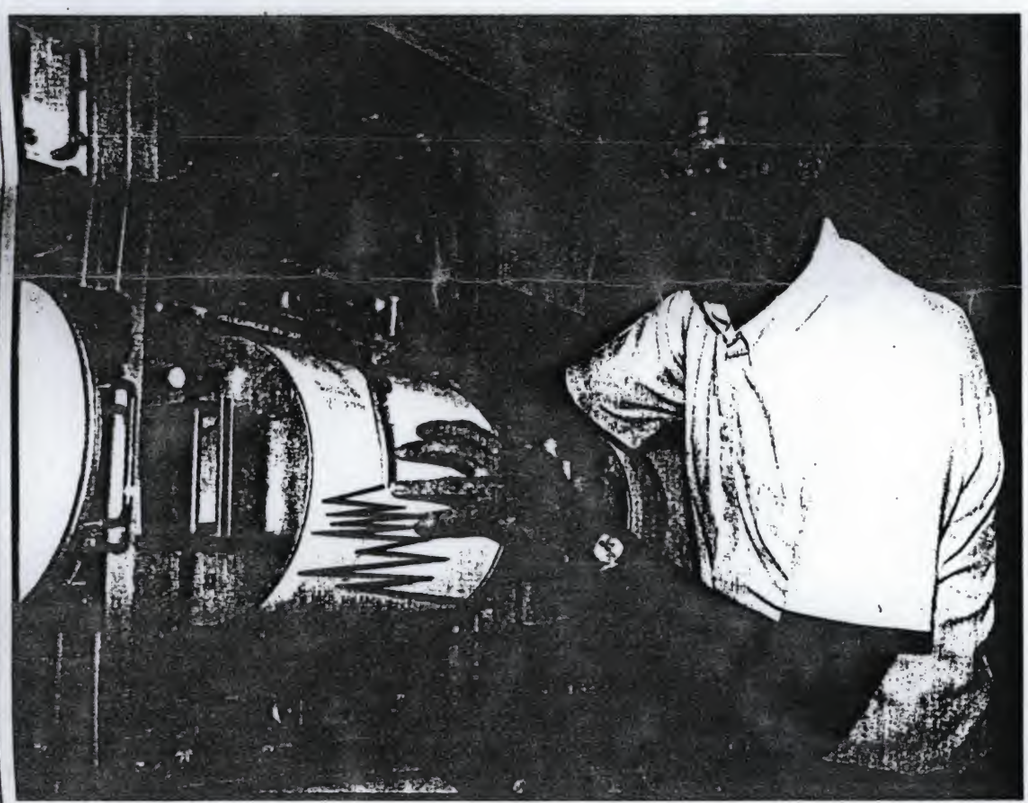
Acumenics president Ronald Yokely said the company first was awarded a DOJ 8(a) contract for automated litigation support services in 1979. In 1983, it lost its 8(a) eligibility after being acquired by Hadron but won a four-year competitively bid contract to supply Justice's Land and Natural Resources Division the same services.

The new contract, which officials said was also awarded under competitive terms, is essentially a continuation of the contract let in 1983. It runs for one year, with an option to renew for another four years.

Yokely said that "there is no connection" linking Brian's association with the attorney general to the company's DOJ contract. "There was nothing then, and there's nothing now," he said, referring to 1984 reports that Meese failed to disclose a loan to Biotech Capital Corp., a company controlled by Brian.

An Acumenics competitor for the 1983 contract, who declined to be named, said his company no longer bids on DOJ contracts because, he said, "they have the screwiest procurement policies of any agency I have ever dealt with. Their procurement practices stink."

SEE **JUSTICE,** PAGE 4



JANET REEVES

Seismographic Monitoring
Bruce Presgrave calls the National Earthquake Information Center "the world's earthquake library."

System Detects Quakes' First Rumblings

By BOB BREWIN

For years, scientists have predicted that a major earthquake will occur soon along the nation's West Coast. To be as prepared as possible for that event and other quakes around the world, the National Earthquake Information Center in Golden, Colo., monitors the earth's shrugs 24 hours a day, collecting and analyzing seismic data.

At 8:47 a.m. on Oct. 1 when an alarm sounded at NEIC, geophysicists working at the U.S. Geological Survey unit knew it signaled a potentially damaging earthquake. At that moment, however, they knew neither its exact location nor its intensity. They quickly checked their seismographs, which had already begun to trace the shock on both paper and film.

As the pens continued to record the action of the quake, scientists fed raw data from the seismographs into the center's Digital Equipment Corp. VAX 1180.

Within 15 minutes after that bell sounded, the geophysicists pinpointed the quake using a Fortran program called, appropriately enough, Quickquake. Centered near Whittier, Calif., about 10 miles southeast of

SEE **RUMBLINGS,** PAGE 45

line managers sign off on their schedules and cost estimates?

► Are design errors projected and compared to actuals?

► Are automated tools used to analyze software complexity?

"Not all assessment questions need be answered affirmatively for an organization to be considered to have a modern software engineering capability," according to the document.

An addendum to the document also contains suggested questions designed to assess the experience level of the contractor's personnel. The questions ask for years of systems development experience of the personnel, their computer science and related degrees and the size of the firm's software development projects as measured by lines of computer code.

By weighting and scoring the questions, contractors are assigned positions in a two-dimensional matrix. One axis indicates "level of process maturity," from "initial" (ill-defined procedures and controls) to "optimized" (high degree of control and sophistication). The other axis indicates whether the contractor's software development technologies are deemed to be effective.

Training Managers

W.L. Sweet, who managed the development of the assessment method, said the SEI is training Defense Department procurement officers in its use now. They will then train their own assessment teams, and Sweet expects to see the procedures in use sometime after of the year.

...ant to stress that the guidelines not to be unilaterally imposed on ...ntractors. Procurement officers are to use them only when appropriate and in ways appropriate to individual procurements," Sweet said.

Sweet said defense contractors worked closely with the SEI in developing the assessment measures and procedures, and the document just released reflects comments from a mailing to 400 companies and federal officials. An updated version will be issued in the spring, he said.

Although developed at the request of the Defense Department, the assessment methods are just as applicable to civilian agencies, Sweet said.

"We don't want to increase the burden on industry in the procurement process," Sweet said. "It's already burdensome enough. The idea is not to work harder but to work smarter." ◄

JUSTICE,

FROM PAGE 1

He said after losing the 1983 contract to Acumenics, "we took a look at their bid compared to ours, and it was about a $1.5 million over ours."

He called the contract a "mixed bag" at various terms, including some fixed price, some cost reimbursable and some labor costs." He added that his company had "been deemed technically competitive and among the best of the bidders."

Martin Erim, president of another automated legal services firm, said that his company also does not bother to bid on Justice contracts any more "because of the cast of characters involved. The appeal has been lost for us because of the minority set-asides."

Joseph Krovisky, a Justice Department spokesman, said DOJ would not comment on the situation.

Meese has come under repeated scrutiny while attorney general as the number of contracts awarded to his associates and business partners has grown.

During confirmation hearings for the post of attorney general, Meese acknowledged that his family borrowed $15,000 from a former Reagan gubernatorial aide to purchase stock in Biotech, Brian's personal business vehicle. The aide later became Meese's White House deputy.

Meese said his failure to list the loan in his annual financial disclosure statements to the White House was "inadvertent." However, the 1980 loan was not disclosed until March 1984, when it was reported by *The Washington Post*.

Following a six-month investigation, an independent counsel concluded there was no basis on which to prosecute Meese for violation of federal criminal statutes.

At about the same time, Sen. Strom Thurmond (R-S.C.), chairman of the Senate Judiciary Committee, questioned whether Biotech received favorable treatment in obtaining a $5 million federal loan guarantee from the Small Business Administration, despite an agency moratorium on such loans.

Senate Judiciary Committee staff would not comment on the latest Brian/Meese connection but said they would be "very interested" in looking at new facts. ◄

United States Bankruptcy Court
For The District of Columbia

George Francis Bason, Jr.
Bankruptcy Judge

United States Courthouse
Washington, D.C. 20001

February 1, 1988

BY HAND DELIVERY

James C. McKay, Esq.
1201 Pennsylvania Ave., N. W.
Washington, D. C. 20004

Dear Mr. McKay:

Attached are copies of (i) my letter of this date to Attorney General Edwin Meese, III, (ii) my sua sponte order of January 29, 1988 scheduling a hearing in Bankruptcy Court on February 4, 1988 at 4:00 p.m., (iii) Inslaw's opposition to the fee application of Dickstein, Shapiro and Morin ("DS&M"), and (iv) DS&M's withdrawal of its fee application.

You will note that paragraphs 3-7, 13, 14, 24-27, and 30 of Inslaw's opposition contain certain allegations relating to Attorney General Meese, Leonard Garment, Esq. and E. Bob Wallach, Esq. These allegations could be construed as raising an issue of possible obstruction of justice or conspiracy to obstruct justice (see 18 U.S. C. Section 1503) by interfering or attempting to interfere with Inslaw's due-process right to counsel of its choice in its multi-million dollar lawsuit against the Department of Justice.

By way of background, you may be interested to know that I have just recently issued over 200 pages of findings of fact and conclusions of law, as well as a final judgment order granting Inslaw declaratory and injunctive relief, plus attorney's fees and costs, against the Department of Justice. I have found that the Department converted Inslaw's property by trickery, fraud and deceit, and that the Department made an institutional decision at the highest level simply to ignore serious questions of ethical impropriety, raised repeatedly by persons of unquestioned probity and integrity, and this failure constituted bad faith, vexatiousness, wantonness and oppressiveness. I expect to issue further findings of fact, conclusions of law and an order within the next few days awarding millions of dollars in damages to Inslaw. The attached magazine article entitled "Vendetta" may provide further background information.

I hope the above may be of assistance to you in your endeavors.

Very truly yours,

George Francis Bason, Jr.
United States Bankruptcy Judge

United States Bankruptcy Court
For The District of Columbia
United States Courthouse
Washington, D.C. 20001

George Francis Bason, Jr.
Bankruptcy Judge

February 1, 1988

BY HAND DELIVERY

The Honorable Edwin Meese, III
United States Attorney General
United States Department of Justice
Washington, D. C. 20530

Re: In re Inslaw, Inc. Case No. 85-00070
Inslaw, Inc. v. United States, et al.,
Adversary Proceeding No. 86-0069

Dear Mr. Attorney General:

Attached is a copy of my sua sponte order issued in the above-entitled case and proceeding on Friday, January 29, 1988, together with a copy of the two documents referred to in that order. You will note that Inslaw's opposition to the fee application filed by Dickstein, Shapiro and Morin contains in paragraphs 3-7, 13, 14, 24-27, and 30 certain allegations relating to you personally and/or Leonard Garment and/or E. Bob Wallach. This letter is being sent to you in case you wish to be heard by this Court with respect to this matter, either personally or through counsel, at the hearing scheduled for February 4, 1988, at 4:00 p.m., other than through Dean S. Cooper, Esq., who is chief trial attorney for the Department of Justice in the above adversary proceeding and who has already been sent a copy of the sua sponte order.

I am also enclosing a copy of my July 17, 1987 letter to you, with its attachment. In light of this Court's subsequent rulings in the Inslaw v. United States proceeding, as well as Inslaw's allegations referred to in the first paragraph of this letter, you may wish to consider anew at this time whether it would be in the best interests of the Department now to have some sort of "independent handling" of the Inslaw-DOJ dispute.

Very truly yours,

George Francis Bason, Jr.
United States Bankruptcy Judge

Enclosures

FILED AND ENTERED

JAN 29 1988

Martin L. Bloom, Clerk
U.S. Bankruptcy Court for D.C.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re INSLAW, INC., Debtor.	Case No. 85-00070 (Chapter 11)
~~INSLAW, INC.,~~ ~~Plaintiff,~~ v. ~~UNITED STATES OF AMERICA AND THE UNITED STATES DEPARTMENT OF JUSTICE,~~ Defendants.	~~Adversary Proceeding No. 86-0069~~

ORDER TO SHOW CAUSE

The Court, having reviewed the Debtor's "Opposition to Amended Third and Final Application of Dickstein, Shaprio and Morin for Fees," as well as DS&M's "Notice Withdrawing Application for Interim Compensation," and the entire record of this case and proceeding, sua sponte:

ORDERS the firm of Dickstein, Shapiro & Morin to show cause why the Court's Order of December 2, 1986, awarding ~~fees of~~ $125,000.00 in fees and $22,394.74 in expenses, should not be vacated and why the firm of Dickstein, Shapiro & Morin should not be ~~requested~~ required to disgorge the amount of $25,000.00 which Dickstein, Shapiro & Morin has already been paid.

IT IS FURTHER ORDERED this 29th day of January, 1988, that a hearing will be held on this Order to Show Cause on February 4, 1988 at 4:00 p.m.

Geo. Bason

George Francis Bason, Jr.
United States Bankruptcy Judge.

#779

cc: Michael E. Nannes, Esq.
Dickstein, Shapiro & Morin
2101 L St., N. W.
Wash., D. C. 20037

Bruce Goldstein, Esq.
Zuckerman, Spaeder, Moore,
Taylor & Kolker
1201 Conn. Ave., N. W.
Wash., D. C. 20036

Mr. William A. Hamilton
President, Inslaw, Inc.
1125 Fifteenth St., N. W.
Suite 600
Wash., D. C. 20005

Charles R. Work, Esq.
McDermott, Will & Emery
1850 K St., N. W.
Washington, D. C. 20006

Dean S. Cooper, Esq.
U.S. Department of Justice
Civil Litigation Division
Washington, D. C. 20530

Charles A. Docter, Esq.
1325 G ST., N. W.
Suite 700
Wash., D. C. 20005

Karen L. Myers Zauner, Esq.
Piper & Marbury
Counsel to Bank of Bethesda &
National Bank of Washington
36 South Charles St.
Baltimore, Md. 21201

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re:	)	
	)	
INSLAW, INC.,	)	Case No. 85-00070
	)	
Debtor,	)	(Chapter 11)
	)	

OPPOSITION TO AMENDED THIRD AND FINAL APPLICATION OF DICKSTEIN SHAPIRO & MORIN FOR FEES

INSLAW, Inc., through undersigned counsel, respectfully opposes the Amended Third and Final Application for Fees filed herein by the law firm of Dickstein, Shapiro and Morin ("DS&M") in the amount of $464,096.31. As reasons for this opposition counsel state:

1. A petition under Chapter 11 of the Bankruptcy Code was filed herein by INSLAW on February 7, 1985. INSLAW has remained in possession of its property and is now operating its business as Debtor-in-Possession pursuant to 11 U.S.C. §1100.

2. On March 11, 1986, this Court ordered the retention of DS&M to represent INSLAW in its litigation against the United States Department of Justice ("DOJ"). At the time of the order, Leigh Ratiner was lead counsel and partner in charge of the INSLAW representation.

3. On August 15, 1986, Leigh Ratiner told William Hamilton, INSLAW's president, that he had spoken that day with E. Bob Wallach, Of Counsel to DS&M, to request his help in getting Attorney General Meese to realize that DOJ had behaved improperly

#764

in the INSLAW matter and should seek a fair and equitable settlement. Wallach said he would be in San Francisco trying a case during August and would call Judge D. Lowell Jensen in an attempt to "desensitize" Judge Jensen on the INSLAW case and then would contact Deputy Attorney General Arnold Burns and Attorney General Meese and tell them that Judge Jensen had no interest in the INSLAW matter and that they should do whatever they thought was right.

4. On August 21, 1986, Leigh Ratiner and Richard Conway of DS&M met with Deputy Attorney General Arnold Burns, pursuant to Mr. Burns' written commitment to the Senate Judiciary Committee to take a fresh look at the possibility of an early and amicable resolution of the INSLAW case. Mr. Burns began the meeting by observing that DOJ had a number of friends at DS&M, including Leonard Garment, David Shapiro and E. Bob Wallach.

5. On August 23, 1986, Leigh Ratiner told Hamilton that E. Bob Wallach was that week with Attorney General Meese in Jackson Hole, Wyoming.

6. On September 11, 1986, Ratiner told Hamilton about a telephone conversation he had with E. Bob Wallach as Wallach was leaving for a visit to Europe. Ratiner told Hamilton that it was clear to him that Wallach had talked to Deputy Attorney General Burns about the INSLAW case since the August 15, 1986, meeting between Wallach and Ratiner and Nannes.

7. On September 23, 1986, Ratiner and Nannes met with E. Bob Wallach who reported on what he had learned about the INSLAW matter since the time of their first meeting on August 15, 1986. Wallach prefaced his remarks with the admonition that they not

pass the information to their client. Wallach said the following:

- That Lowell Jensen used very strong words with Attorney General Meese about INSLAW and "queered" Attorney General Meese on INSLAW.

- That they might think Lowell Jensen had left DOJ, but he would always be involved in the INSLAW case.

- That the highest levels of DOJ, were angry with INSLAW.

- That DOJ would never settle with INSLAW.

- That INSLAW was in a fight for its corporate life.

- That Deputy Attorney General Arnold Burns was a very fair man and that he did not think Burns would write a deceptive letter.

8. On September 26, 1986, Leigh Ratiner reported to Hamilton that he had had a conversation with DOJ counsel, Dean Cooper, in which Cooper:

- Raised the possibility of criminal liability for Hamilton if INSLAW failed to obtain a declaratory judgment that it owns the PROMIS software, on the grounds that INSLAW would have been selling government property to the government.

- Suggested that INSLAW's Unsecured Creditors Committee would be upset when they discovered that INSLAW could not prove its ownership of the PROMIS software.

- Stated that INSLAW would be unable to make any sales in the future if it failed to win on the declaratory judgment issue.

- Offered to give INSLAW an even stronger letter on its right to sell the PROMIS software than the August 11, 1982, letter from Associate Deputy Attorney General Stanley Morris if INSLAW would drop the case.

- Stated that it had already been decided at the highest levels of the DOJ to appeal the INSLAW case all the way to the Supreme Court, if necessary.

9. On October 12, 1986, the Los Angeles Times published an article by its reporter, Bill Farr, alleging an improper role in

the INSLAW bankruptcy on the part of former Deputy Attorney General D. Lowell Jensen.

10. On October 22, 1986, Leigh Ratiner and Michael Nannes had a luncheon meeting with William and Nancy Hamilton. Nannes told the Hamiltons that DS&M had information on the highest authority that DOJ would never settle with INSLAW and asked the Hamiltons if INSLAW would be satisfied if DOJ acknowledged INSLAW's rights to sell the PROMIS software.

11. On October 24, 1986, Leigh Ratiner informed Hamilton that DS&M had asked him to withdraw from the firm; and that he believed the request was triggered by his naming of D. Lowell Jensen in the INSLAW complaint filed against DOJ in this Court on June 9, 1986, and his inability or unwillingness to "control" INSLAW as a client. Ratiner further reported that the decision to request his withdrawal from the firm occurred at a meeting of DS&M's five-person Strategic Planning Committee during the week of the publication of the Los Angeles Times October 12, 1986, article.

12. On October 31, 1986, Joyce Deroy, a former employee of INSLAW, reported to INSLAW's Marian Holton that while attending a party she had learned from an attorney in the firm of DS&M that the firm no longer represented INSLAW.

13. On November 5, 1986, Leigh Ratiner told Hamilton that Frederick Lowther, managing partner of DS&M, had confirmed that Leonard Garment was the partner who was the prime mover in the dismissal of Ratiner. (Leonard Garment represented Edwin Meese III during his investigation by Special Counsel Jacob Stein in 1984 and during his confirmation hearings in the United States

Senate for the position of Attorney General of the United States.)

14. In approximately November 1986, Bill Farr of the Los Angeles Times, now deceased, told Hamilton that the Washington Bureau of the Los Angeles Times had independently confirmed that Leonard Garment had instigated the requested withdrawal from DS&M of Leigh Ratiner.

15. On November 19, 1986, INSLAW, through Bankruptcy Counsel Charles Docter, requested an emergency in-camera hearing in chambers of this Court to discuss a development characterized in the pleading as "profoundly serious" to the adversary proceeding against DOJ.

16. On November 21, 1986, William and Nancy Hamilton were invited to meet and did meet with DS&M managing partner Frederick Lowther to discuss the issue of Ratiner's departure from the firm and its effect on the representation of INSLAW. Mr. Lowther assured the Hamiltons that the request for the withdrawal of Ratiner from DS&M was unrelated to the INSLAW case, and that DS&M would aggressively pursue discovery in the case, irrespective of the consequences for Mr. Jensen or any other public official.

17. On November 24, 1986, INSLAW Bankruptcy Counsel Charles Docter filed an application to vacate the order for the in-chambers hearing for the reason that INSLAW had, on its own, been able to resolve the problems.

18. On December 2, 1986, this Court issued an order granting DS&M's First Interim Compensation and Reimbursement of Expenses, for a total interim fee payment of $125,000 and reimbursement of out-of-pocket expenses in the amount of

$22,394.74. The Court specifically noted in its order that the aforementioned "allowances are without prejudice to the rights of any interested party to object on any basis to the foregoing allowances, whether in connection with an application for final compensation or otherwise."

19. On January 7, 1987, on the eve of the first day of INSLAW's access to DOJ documents in discovery during the Adversary Proceeding against DOJ, the DS&M trial team visited INSLAW and told INSLAW management that there had been a recent and drastic deterioration in the chances of winning the case; that INSLAW should agree to settle the case; and that DS&M should present an offer of settlement, binding on INSLAW, to the DOJ the following morning before beginning the review of the DOJ documents being made available under discovery.

20. On January 14, 1987, Leigh Ratiner told the Hamiltons that he had submitted a written resignation from the INSLAW case and that he did not believe that DS&M could any longer effectively represent INSLAW.

21. On January 15, 1987, Michael E. Nannes of DS&M sent a letter to Hamilton advising INSLAW to enter into a global settlement negotiation with the United States; aprising Hamilton of the fact that the Government did not want William or Nancy Hamilton "physically present" at the negotiation; and demanding written authority from Hamilton to settle, by the close of business that day, on terms and conditions outlined in the letter.

22. On February 17, 1987, this Court issued an order authorizing the withdrawal of DS&M as Litigation Counsel for INSLAW.

23. On April 17, 1987, this Court issued an order authorizing the retention of McDermott, Will and Emery and Kellogg, Williams and Lyons as litigation co-counsel for INSLAW.

24. On July 16, 1987, defendant DOJ served on INSLAW its Answers and Objections to Plaintiff's Third Set of Interrogatories and Fifth Request for Production of Documents. In response to Interrogatory No. 6, DOJ revealed that Attorney General Edwin Meese and apparently Deputy Attorney General Arnold Burns had had conversations with Leonard Garment relating or referring to the October 1986 Los Angeles Times article on the role of D. Lowell Jensen in the INSLAW bankruptcy.

25. On October 2, 1987, Charles R. Work of McDermott, Will and Emery wrote to Michael E. Nannes of DS&M; enclosed a copy of the Defendant's Answers and Objections to Plaintiff's Third Set of Interrogatories and Fifth Request for Production of Documents; advised Mr. Nannes that the referenced communications between Mr. Garment and the top two officials of the Department of Justice had never been disclosed to the management of INSLAW; and requested a written report on the particulars of these communications.

26. On November 24, 1987, Work wrote to Frederick Lowther, DS&M's managing partner, reiterating his request for an explanation about the two communications and advising Lowther that his earlier letter to Mr. Nannes had not been answered.

27. On December 11, 1987, Robert Higgins of DS&M wrote to Work in response to Work's November 24, 1987, letter to Lowther. Mr. Higgins advised Mr. Work that DS&M considered it "inappropriate" to reply to his request for discovery in part

because of the December 2, 1986, order of this Court authorizing the payment of DS&M's interim application for fees and expenses.

28. At the time of DS&M's withdrawal from representation of INSLAW in the Adversary Proceeding, the case was scheduled for trial on February 27, 1987. The withdrawal necessitated a continuance of the trial date until July 20, 1987, and forced INSLAW to seek to retain new counsel for the DOJ litigation and incur substantial and otherwise unnecessary expense in order for new counsel to familiarize themselves with the factual and legal intricacies of a dispute that covered virtually five years, hundreds of thousands of documents and dozens of witnesses.

29. DS&M's withdrawal and the consequent continuance of the trial for five months was further harmful to INSLAW. The company's credibility in the marketplace had been virtually destroyed by DOJ's vendetta. Prospective customers and business partners quite naturally concluded that if INSLAW had been rejected by what was then its largest and oldest customer, its services and products were suspect and to be avoided. A prompt trial of INSLAW's startling allegations was the only effective tool that INSLAW had to restore its credibility in the marketplace. [1] At the time of DS&M's withdrawal, because of the

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[1] INSLAW has begun to achieve this goal. In the months immediately following this Court's liability ruling, INSLAW has closed several software sales aggregating several hundred thousands of dollars in licensing revenues with customers who had been unwilling to go forward prior to the ruling. In addition, a major corporation has agreed to provide financing which will enable INSLAW to file a Plan of Reorganization on January 31, 1988. The delay in obtaining the eventual ruling of the Court thus delayed INSLAW's receipt of these revenues and financing resources at a time when it sorely needed them.

continuing effect of DOJ's unlawful conduct, INSLAW's business situation was desperate. Yet, notwithstanding these special circumstances, which were well known to DS&M, the firm insisted that INSLAW should authorize a settlement with DOJ which would have done little more than pay DS&M's legal fees and would, in the judgment of INSLAW's management, have prevented it from successfully reorganizing and surviving commercially. DS&M's position is suspect in light of the fact that no discovery of DOJ documents or witnesses had then yet been had and, of course, in light of the ultimate findings made by the Court in the Adversary Proceeding.

30. Given all of the circumstances set forth herein, especially the evidence obtained from DOJ in discovery reflecting contacts between DS&M partner Leonard Garment and both Attorney General Meese and Deputy Attorney General Burns about INSLAW relating to the October 1986 Los Angeles Times article, the fact that INSLAW was never advised of these contacts and DS&M's present continuing declination to respond to INSLAW's inquiries regarding the contacts create a clear implication: that DS&M fired Ratiner and then withdrew from the case, not, as it maintained, because of a professional judgment that the settlement authority demanded was in INSLAW's best interests under all the circumstances, but rather, because the case threatened the firm's relationship with the Attorney General, the DOJ, and its economic interests flowing from that relationship.

31. For all of the reasons set forth, INSLAW respectfully opposes DS&M's application for payment of any of its claimed fees

and expenses. [2] Should the Court determine to direct payment of any fees and expenses to DS&M, INSLAW requests that they be made payable solely by DOJ pursuant to any judgment ultimately sustained and paid.

Respectfully submitted,

Charles R. Work
Michael E. Friedlander
Jacqueline E. Zins

McDERMOTT, WILL & EMERY
1850 K Street, N.W., Suite 500
Washington, D. C. 20006

Philip L. Kellogg
James L. Lyons

KELLOGG, WILLIAMS & LYONS
1275 K Street, N.W., Suite 825
Washington, D. C. 20005

Attorneys for Plaintiff
INSLAW, Inc.

DATED: January 22, 1988

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[2] INSLAW has considered DS&M's expressions of a desire to resolve this dispute. The facts set forth herein constitute, in counsel's view, a prima facie basis for countervailing claims against DS&M possibly in excess of DS&M's fee claims. INSLAW does not at present have the executive time nor the resources to examine in the detail necessary, any potential claims against DS&M. It desires to preserve its right to do so hereafter, however. For this reason, INSLAW has determined not to pursue any negotiated compromise of DS&M's claims at this time.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Opposition to Amended Third and Final Application of Dickstein Shapiro & Morin for Fees were hand-delivered this 22nd day of January, 1988, to:

Mr. William A. Hamilton, President
INSLAW, Inc.
1125 15th Street, N.W.
Suite 600
Washington, D. C. 20005

Bruce Goldstein, Esquire
Zuckerman, Spaeder, Goldstein,
Taylor & Kolker
1201 Connecticut Avenue, N.W.
Washington, D. C. 20036

Karen L. Myers Zauner, Esquire
Ober, Kaler, Grimes & Shriver
1600 Maryland Bank Building
10 Light Street
Baltimore, Maryland 21201

Charles A. Docter, Esquire
Docter, Docter & Salus, P.C.
1325 G Street, N.W.
Suite 700
Washington, D. C. 20005

Robert Higgins, Esquire
Dickstein, Shapiro & Morin
2101 L Street, N.W.
Suite 800
Washington, D. C. 20037

Philip L. Kellogg

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In Re INSLAW, INC., Debtor-in-Possession	Bank. Case No. 85-00070

NOTICE WITHDRAWING APPLICATION FOR INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES

On November 13, 1987, Dickstein, Shapiro & Morin ("DS&M") filed its Amended Third And Final Application For Interim Compensation For Legal Services Rendered And Reimbursement Of Expenses Incurred. By notice issued January 7, 1988, Debtor's counsel scheduled this interim application for hearing on January 29, 1988 at 2:00 p.m. For the reasons that follow, this notice is to advise that DS&M does not intend to present this Application for interim compensation, but instead will seek payment of its fees and expenses by request for final compensation.

On December 2, 1986 this Bankruptcy Court ordered Inslaw to make a fee payment to DS&M in the amount of $125,000 by December 15, 1986, and to pay accrued expenses of $22,394.74 "forthwith." Inslaw has made no payment whatsoever toward this obligation. On January 22, 1987, Inslaw and DS&M agreed that payment of fees in excess of the aforementioned $125,000 would not be made "until the earlier of (1) final resolution of the [Inslaw/DOJ] litigation; or (2) conclusion of Inslaw's Chapter 11 status,

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by reorganization or any other process." See Exhibit A to this Notice. Inslaw and DS&M also agreed that they would "attempt to reach an agreement as to the value of all legal services rendered by Dickstein, Shapiro & Morin, to be reported as a liquidated sum." DS&M assembled materials relevant to achieving such an agreement, and presented them by the above referenced Application and supporting materials.

Recent events, including but not limited to Inslaw's unsupported and inflammatory "Opposition To Amended Third And Final Application Of Dickstein, Shapiro & Morin For [Interim Payment of] Fees," demonstrate that no agreement has resulted. Since it stands agreed that DS&M will not be paid interim compensation for fees in excess of $125,000 for some significant period of time, however, it would serve no useful purpose to litigate now whether DS&M has the right to receive such compensation. Accordingly, the Application for interim compensation is withdrawn.

DATED: January 26, 1988

DICKSTEIN, SHAPIRO & MORIN

By: 

Robert J. Higgins
D.C. Bar No. 155614
Michael E. Nannes
Richard J. Conway
2101 L Street, N.W.
Washington, D.C. 20037
(202) 785-9700

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Notice Withdrawing Application For Interim Compensation And Reimbursement Of Expenses were served by first class mail, postage prepaid, this 26th day of January 1988, upon the following:

Bruce Goldstein, Esquire
Zuckerman, Spaeder, Moore,
Taylor & Kolker
1201 Connecticut Avenue, N.W.
Washington, D.C. 20036

Charles A. Docter, Esquire
1325 G Street, N.W.
Suite 700
Washington, D.C. 20005

Mr. William A. Hamilton
President
Inslaw, Inc.
1125 Fifteenth Street, N.W.
Suite 600
Washington, D.C. 20005

Karen L. Myers Zauner, Esquire
Piper & Marbury
Counsel to Bank of Bethesda &
National Bank of Washington
36 South Charles Street
Baltimore, Maryland 21201

and by hand delivery upon

Charles R. Work, Esquire
McDermott, Will & Emery
1850 K Street, N.W.
Washington, D.C. 20006

Michael E. Nannes

DICKSTEIN, SHAPIRO & MORIN
2101 L STREET, N.W.
WASHINGTON, D.C. 20037
202 785-9700
TELEX: 892608 DSM WSH

MICHAEL E. NANNES
DIRECT DIAL
202-828-2252

598 MADISON AVENUE
NEW YORK, N.Y. 10022
212 832-1900

January 22, 1987

Mr. William A. Hamilton
President
INSLAW, Inc.
1125 15th Street, N.W.
Suite 600
Washington, D.C. 20005

Dear Bill:

This letter is to confirm, subject to the approval of the United States Bankruptcy Court, our agreement that Dickstein, Shapiro & Morin shall withdraw from representation of INSLAW in its pending matters against the United States Department of Justice, before both the United States Bankruptcy Court and Department of Transportation Contract Appeals Board, in favor of the transfer of such representation to INSLAW's new litigation counsel, Nixon, Hargrave, Devans & Doyle.

Please be assured that our firm will continue to represent INSLAW, to the extent necessary to maintain INSLAW's present posture in the referenced matters, until this transfer is acted upon by the United States Bankruptcy Court. It is our understanding that INSLAW's bankruptcy counsel, Docter, Docter & Salus, will submit a request to the Bankruptcy Court for approval of this proposed transfer today or tomorrow, and seek immediate action upon the request.

We will be pleased to provide copies of all of our records, memoranda and briefs pertinent to the INSLAW litigation effort to Nixon, Hargrave, Devans & Doyle, and to brief the firm on the status of the various proceedings.

As part of this agreement, INSLAW agrees to pay to Dickstein, Shapiro & Morin expenses currently outstanding (estimated to be $60,000), as soon as money becomes available to pay those expenses, subject to court approval. Dickstein, Shapiro & Morin agrees to permanently waive its claim for any contingency fee associated with ultimate recovery in the litigation.

EXHIBIT A

Dickstein, Shapiro & Morin agrees to hold in abeyance its request for payment of fees in excess of those which are the subject of the Bankruptcy Court's Order entered December 5, 1986 (nunc pro tunc as of September 30, 1986) until the earlier of (1) final resolution of the litigation; or (2) conclusion of INSLAW's Chapter 11 status, by reorganization or any other process. Dickstein, Shapiro & Morin does not agree to hold in abeyance its request for payment of fees which are the subject of the referenced Order (i.e. $125,000), and reserves its right to seek payment. INSLAW reserves the right to oppose such payment requests.

Dickstein, Shapiro & Morin and INSLAW shall attempt to reach an agreement as to the value of all legal services rendered by Dickstein, Shapiro & Morin, to be reported as a liquidated sum. Failing agreement, the matter shall be presented to the Bankruptcy Court or to a mutually agreeable third party for resolution.

We wish INSLAW continued success in the pursuit of its various claims.

Sincerely yours,

Michael E. Nannes

MEN:jmm
cc: Charles Work, Esquire
Charles Docter, Esquire

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February 8, 1988

MEMORANDUM FOR THE RECORD

FROM: William A. and Nancy B. Hamilton

SUBJECT: Possibility that the DOJ Fraud Against INSLAW is an Integral Part of a Much Larger DOJ Procurement Fraud

On September 28, 1987, United States Bankruptcy Court Judge George Bason, Jr., announced his ruling following a two-and-one-half-week trial of INSLAW versus the United States Department of Justice (DOJ). Judge Bason ruled that DOJ officials "took, converted, stole" INSLAW's proprietary PROMIS [Prosecutor's Management Information System] case management computer software product through "trickery, fraud and deceit." On February 2, 1988, Judge Bason ordered DOJ to pay INSLAW almost $6.8 million in licensing fees for the 44 copies of the PROMIS software that DOJ had misappropriated from INSLAW.

We believe that this $6.8 million DOJ theft from INSLAW is a small, but integral part, of a much larger DOJ procurement fraud involving the largest single purchase of computer systems in the history of DOJ. We are referring to the pending DOJ purchase of computer hardware, software and services for the 94 United States Attorneys Offices and the Criminal and Tax Divisions, RFP No. JPTAX-86-R-0018, issued on May 23, 1986.

The computer trade press has estimated that the initial phase of this procurement is worth $200 million, and DOJ has included options in the RFP to expand the contract with the winning vendor to include other DOJ "Offices, Boards and Divisions."

When originally issued in May 1986, the RFP (Request for Proposal) was focused on the headquarters and field locations of two of the DOJ legal divisions: the Criminal Division and the Tax Division. Through Amendment No. P006 on August 25, 1986, DOJ enlarged the procurement to include the 94 United States Attorneys Offices.

The RFP seeks computer hardware, software and services to create an "Integrated Office Automation System" that will integrate for the benefit of DOJ attorneys and other "knowledge" workers three kinds of computer-based technologies: (1) word processing; (2) case management; and (3) telecommunications, such as access to external legal data base services, electronic mail, and the electronic exchange of drafts of legal documents.

The winning vendor is to supply and integrate all of the hardware and software for this three-pronged system except the case management software. Instead of supplying the case management software and integrating it with the other technologies, the winning vendor is to supply software tools that could be used to create the case tracking software [i.e., a Data Base Management System (DBMS) software product whose relationship to a case tracking system could be analogized to the relationship of an engine to a car; and a 4th Generation Non-Procedural Application Language which could be analogized to a set of machine tools, presses and welding irons for the custom-development of a car].

When DOJ amended the RFP in August 1986 to include the 94 United States Attorneys Offices, it made other changes to the procurement consistent with the hypothesis that DOJ was planning to use INSLAW's PROMIS software for the case management system in at least the 94 U.S. Attorneys' Offices:

- In paragraph C.6.3.1.g of Amendment P006, DOJ for the first time made mandatory the ability for each computer to run software written in the COBOL language, which is a procedural application language that is an alternative to the 4th Generation Non-Procedural Application Language and the language in which PROMIS is written.

- In C.6.8.1.g of Amendment P006, DOJ further mandated that the DBMS software product be capable of interfacing with application software written in the COBOL programming language.

- In Amendment P006, DOJ did not furnish the bidders with detailed information about the existing case management systems in the U.S. Attorneys Offices (e.g., record lengths, number of records for each physical file, key structure, and assumptions of the volumes of on-line versus batch transactions to be processed) as DOJ had done with both the Criminal and Tax Divisions in the original May 1986 version of the RFP and did not ask the vendors to supply estimates of the time and costs required to use the vendors' DBMS and 4th Generation Application Language to recreate the existing case management systems of the U.S. Attorneys on the computers supplied by the winning vendor.

Apparently, some of the potential bidders noticed these differences for the 94 United States Attorneys Offices. In Amendment No. P007 on September 29, 1986, DOJ published bidders Questions and Answers relating to the August addition of the 94 U.S. Attorneys Offices. On pages 113 and 114, DOJ publishes answers to bidders questions about whether DOJ plans to install the PROMIS software on the computers furnished by the winning vendor, stating that the computers acquired under the RFP "will not be required" to run PROMIS and that the Government planned to develop case management software to replace PROMIS, apparently to be built using the DBMS and 4th Generation Language to be acquired under the RFP.

We believe that this statement by DOJ in RFP Amendment No. P007, dated Septebmer 26, 1986, is contradicted by both the aforementioned DOJ changes to the RFP (Amendment No. P006, dated August 26, 1986) and by a subsequent sworn statement by DOJ on the same subject. On July 27, 1987, in supplemental DOJ Answers to Interrogatories from INSLAW which DOJ was compelled to produce in response to an Order from Judge Bason, DOJ stated that the PROMIS software supplied by INSLAW may be further modified by DOJ to operate in all United States Attorneys' Offices on the computers being acquired under the RFP.

We believe the denial by DOJ on September 26, 1986, of the obvious implications of its August 25, 1986, Amendment No. P006 was a deliberately disingenuous statement calculated to conceal a conspiracy by DOJ to deprive INSLAW of its proprietary PROMIS software by any means.

Deputy Attorney General Arnold Burns, in a letter to INSLAW counsel dated August 28, 1986, suggested that all of the contract disputes between INSLAW and DOJ could be settled in monetary terms out of court were it not for a "fly in the ointment," INSLAW's claim of entitlement to license fees for DOJ's use of INSLAW's proprietary PROMIS software. Deputy Attorney General Burns stated that INSLAW's "expectations with respect to compensation in this regard are entirely unjustified and unjustifiable." We believe that the clear import of Mr. Burns' letter is that DOJ would quickly settle all of INSLAW's other claims through the payment of monies to INSLAW if INSLAW would not dispute DOJ's right to use the PROMIS software without paying any licensing fees to INSLAW.

We believe that Deputy Attorney General Burns took this position, not because he regarded INSLAW's claim as unjustified and unjustifiable as he stated in his August 28, 1986, letter, but because he knew that if INSLAW prevailed in its claim, it would create an immediate problem for the RFP, which was silently

predicated on the use of the PROMIS software in at least the 94 U.S. Attorneys Offices, and threaten the exposure of an even more serious fraud against INSLAW.

United States Bankruptcy Court Judge Cornelius Blackshear of the Southern District of New York testified through depositions in the INSLAW case against the U.S. Department of Justice based on knowledge he had acquired about INSLAW in 1985 when he was the DOJ's United States Trustee for the Southern District of New York. Prior to this first deposition testimony, INSLAW had three separate conversations with Judge Blackshear, in which he described high-level DOJ political pressure to have his Assistant, Harry Jones, detailed to Washington, D.C., to take over the management of the INSLAW case for the purpose of improperly effectuating the Company's liquidation. During the first such pre-deposition conversation on March 18, 1987, Judge Blackshear stated that he had "heard that it was a conspiracy to get INSLAW's software."

We believe that Judge Blackshear had heard correctly and that this is the larger fraud whose exposure DOJ fears most.

On or about April 20, 1983, Dominick Laiti, Chairman of Hadron, Inc., a Washington, D.C.-area government contracting company, telephoned INSLAW's William Hamilton to tell him that Hadron intended to buy INSLAW so as to complete its plans to become the dominant supplier of computer software and services to law enforcement and courts and related agencies. Mr. Laiti described Hadron's recent acquisition of a law enforcement software company, Simcon, and of a litigation support computer services company, Acumenics, as elements of this overall plan. When INSLAW's Hamilton responded in the course of the telephone conversation that INSLAW was not for sale, Mr. Laiti told Mr. Hamilton, in words or substance, that Hadron had ways of making Hamilton sell INSLAW.

Although we did not know it at the time, Hadron's chief stockholder is Dr. Earl Brian, whose undisclosed business relationships with Counsellor to the President Edwin Meese became a target of the investigation of Mr. Meese by Special Counsel Jacob Stein in 1984, following Mr. Meese's nomination in January 1984 to become Attorney General of the United States.

Within 90 days of Mr. Laiti's threat, DOJ had mounted attacks against INSLAW on four separate and unrelated fronts with the apparent objective of creating pretexts for withholding monies owed INSLAW and, thereby, forcing INSLAW either to agree to be acquired or into bankruptcy.

These four fronts were as follows:

1. Reneging on Modification No. 12 to INSLAW's Contract with DOJ's Executive Office for U.S. Attorneys whereby DOJ promised to decide, in advance of the first installation of the PROMIS software on an in-house computer in a U.S. Attorney's Office in August 1983, whether DOJ wanted to keep and install in the 20 largest U.S. Attorneys' Offices INSLAW's proprietary version of PROMIS; and to pay INSLAW licensing fees if DOJ so decided.

2. Repudiating the formula, negotiated between DOJ and INSLAW, for the billing of INSLAW's timesharing services, and the arbitrary decision by DOJ to reduce drastically the payments to INSLAW for these services.

3. Permanently stopping the payment to INSLAW of its monthly vouchers for profit (fee) earned under the contract with DOJ's Executive Office for U.S. Attorneys on the fallacious assertion that INSLAW was at fault for delays in the word processing phase of the contract. Even when DOJ's Procurement Counsel, William Snyder, issued a legal opinion to the Contracting Officer in February 1984 explaining that DOJ lacked a legal basis for finding INSLAW at fault for the delays in the word processing part of the contract, DOJ refused to pay INSLAW's profit.

4. "Misplacing" within DOJ a routine, but important, DOJ audit report on INSLAW's overhead and fringe benefit costs. The DOJ official responsible for negotiating contract billing rates for overhead costs "misplaced" the DOJ audit report without giving a copy to INSLAW for written comment. This prevented INSLAW from negotiating timely billing rates for recovering these costs.

Each of these "fronts" by itself presents a prima facie claim of wrongful administration of the contract. For DOJ to mount unrelated attacks on all four fronts within the 90-day period is more than wrongful administration of the contract. It constitutes a malicious attack against INSLAW designed to starve it of cash and force its sale or bankruptcy.

As noted earlier, DOJ's reneging on the Modification No. 12 to the Contract prevented INSLAW from receiving almost $6.8 million in licensing fees for 44 copies of INSLAW's proprietary PROMIS software. The DOJ suspension of payments to INSLAW in the other three areas accounted for another almost $1.8 million, for a total of $8 million owed INSLAW.

In the Fall of 1983, other DOJ bureaus delayed the award of new business to INSLAW in order to give more leverage to DOJ's Executive Office for U.S. Attorneys. Upon information and belief, Mr. Jack Nadol, Controller of DOJ's Office of Justice Assistance Research and Statistics, held up the award to INSLAW of hundreds of thousands of dollars in new empirical research projects in the Fall of 1983 in order to help DOJ's Executive Office acquire additional leverage over INSLAW.

On December 22, 1983, INSLAW's counsel Elliot Richardson and Harvey Sherzer and INSLAW President William Hamilton met with DOJ's Assistant Attorney General for Administration Kevin Rooney in an attempt to resolve these "contract disputes." INSLAW Counsel Richardson had arranged the meeting through DOJ Deputy Attorney General Edmund Schmultz because of Mr. Richardsons' concern that these "contract disputes" were the product of a Deputy Director of DOJ's Executive Office for U.S. Attorneys whom DOJ had hired to oversee the INSLAW contract and whom INSLAW's President Hamilton had fired as an employee years earlier.

On December 29, 1983, Mr. Rooney made a favorable report on the meeting with Messrs. Richardson, Sherzer and Hamilton to a meeting of DOJ's PROMIS Oversight Committee, chaired by Associate Attorney General D. Lowell Jensen. Mr. Rooney left the meeting early. After he left, Mr. Jensen and the other members of the PROMIS Oversight Committee surprisingly approved a plan to default terminate the word processing part of the INSLAW contract with the DOJ's Executive Office for U.S. Attorneys.

In February 1984, Mr. Jensen decided to terminate the word processing part of the INSLAW contract "for the convenience of the government," apparently after learning of the written legal opinion of DOJ's procurement counsel that there was no legal basis for a termination for default. Mr. Jensen apparently also then approved a plan whereby DOJ's Executive Office for U.S. Attorneys would hire temporary government employees to take over the very word processing tasks that had been taken away from INSLAW.

Also in February 1984, Associate Attorney General and Acting Deputy Attorney General D. Lowell Jensen sent word to INSLAW's President Hamilton encourage INSLAW to submit a proposal to expand significantly the number of U.S. Attorneys' offices scheduled to receive the computer-based PROMIS system, and assuring INSLAW that Mr. Jensen blamed DOJ officials and not INSLAW for the problems and delays in the word processing phase of the contract. INSLAW submitted such a proposal later the same month and kept its U.S. Attorney system installation staff together to perform the work. In April 1984, DOJ's Executive Office for U.S. Attorneys rejected the proposal. Mr. Jensen

later acknowledged that he had failed to tell either the Executive Office for U.S. Attorneys or the Justice Management Division that he had asked INSLAW to submit such a proposal or that he had sent word to INSLAW that the word processing element of the contract had been a bad idea of DOJ itself.

We believe that Mr. Jensen's decision to terminate the word processing part of the INSLAW contract, and to encourage INSLAW to believe that DOJ would give the Company additional work were additional wrongful acts deliberately calculated to weaken INSLAW financially and force its acquisition or bankruptcy.

Eventually, these wrongful and malicious acts by DOJ forced INSLAW into bankruptcy. The Company filed for protection on February 7, 1985.

On June 12, 1987, United States Bankruptcy Court Judge George Bason, Jr., ruled, at the conclusion of a week-long trial, that DOJ sought to bring about INSLAW's liquidation within 30-60 days of the filing for protection under Chapter 11, through unlawful means and without justification. As noted earlier, the unlawful DOJ plan included the detailing to Washington from New York City of then Assistant United States Trustee Harry Jones to argue the motion for the liquidation of INSLAW.

INSLAW believes that DOJ had also arranged for a former colleague of Mr. Jones to be hired by AT&T Information Systems to represent AT&T I.S. in the INSLAW bankruptcy for the purpose of supporting the motion of liquidation. The attorney in question is Mr. Ken Rosen who had been employed as an attorney in the DOJ U.S. Trustee's Office for the Southern District of New York until 1982 and then had become an associate in the Manhattan law firm founded and headed by Arnold Burns, later appointed by Attorney General Meese as Associate Attorney General and Deputy Attorney General.

AT&T I.S. and INSLAW had entered into a very valuable software development and marketing contract in August 1984. INSLAW believes that DOJ encouraged AT&T I.S. to breach the INSLAW contract at the time of the bankruptcy, in clear violation of the automatic stay of the federal bankruptcy code, and to posture itself as a major creditor of INSLAW in order to be able to aid and abet the DOJ conspiracy to destroy INSLAW.

In addition to retaining Ken Rosen and his Roseland, New Jersey law firm, Ravin, Sarasohn, Cook, Baumgarten and Fisch, in the INSLAW bankruptcy, AT&T I.S. hired as its Washington, D.C., co-counsel in the INSLAW bankruptcy the law firm of Shea and Gould. Upon information and belief, Shea and Gould is the law firm that traditionally handles acquisitions by Hadron, Inc., and that represents Dr. Earl Brian's holding company, Infotechnology,

Inc. Upon information and belief, AT&T I.S. does not normally retain Shea and Gould as corporate counsel or bankruptcy counsel or government contracts counsel.

We believe that AT&T agreed to at least appear to retain Shea and Gould in the INSLAW bankruptcy in order to facilitate the planned acquisition of INSLAW or its PROMIS software by Hadron, Inc., pursuant to an auction necessitated by a DOJ-inspired liquidation.

We believe that the RFP is written with tell-tale indications that DOJ sought to acquire computers with the Unix operating system manufactured and marketed by AT&T for operation on both its own line of computers and on the computers of many different manufacturers. These indications include the requirement of the identical operating system software from the smallest multi-user micro to the largest headquarters computer.

According to Infotechnology's 10-K filing with the Securities and Exchange Commission as of June 30, 1987, Hadron specializes in Unix-based information systems and in systems integration contracts with federal agencies. We believe that DOJ intended to award the $200 million contract to Hadron, Inc., and AT&T Information Systems for the AT&T computer hardware, the AT&T Unix operating system, and Hadron's system integration services. We believe that DOJ intended for Hadron to acquire INSLAW's PROMIS software through the bankruptcy proceedings and then to contract with DOJ for its integration with the DBMS software supplied on the AT&T computers.

We believe that another element of the DOJ conspiracy to bring about INSLAW's liquidation in 1985 was the involvement of DOJ Civil Division Attorney Dean Cooper. We believe that Mr. Cooper's active participation in Section 341 meetings in March and April 1985 had the express objective of discouraging INSLAW's trade creditors about the prospects of successful reorganization and that Mr. Cooper's participation in these meetings was a clear departure from long established Civil Division policy.

We believe that another element of the DOJ conspiracy to bring about INSLAW's liquidation in 1985 was the conduct of bad faith negotiations with INSLAW concerning the contract disputes that had caused the INSLAW bankruptcy. We believe that DOJ deliberately prolonged these negotiations and impeded their ability to achieve a fair and equitable resolution of the issues.

We believe that DOJ took action in 1986 to encourage or instigate an attempted hostile takeover of INSLAW by a computer services company in Malvern, Pennsylvania, as a means of obstructing justice. The Company in question is Systems and Computer Technology, Inc. (SCT), which sells computer software

and services to state and local government. In approximately December 1985, SCT prepared a document about the possible acquisiton of INSLAW and reviewed this document with its Wall Street investment bank, L. F. Rothschild, Unterberg and Towbin. On page 2 of the document, SCT recites the fact that its 90 days of due diligence investigation of INSLAW, preceding the preparation of this document, included discussions about INSLAW with unnamed officials of DOJ and DOJ's National Institute of Justice. On page 8, SCT states that "The Meese Justice Department does not like Hamilton." On page 9, SCT discusses the possibility of launching a "hostile takeover." On page 17, SCT states that the contract disputes between INSLAW and DOJ could have been resolved early on.

Upon information and belief, DOJ officials also told SCT that DOJ would look with favor on an acquisition of INSLAW that would result in the removal of Hamilton from INSLAW and led SCT to believe that such actions would be followed by DOJ's early resolution of its contract disputes with INSLAW.

Beginning in April 1986, the month after INSLAW discovered the involvement of then Deputy Attorney General D. Lowell Jensen in the DOJ misconduct against INSLAW, SCT's President began to press its case for an outright acquisition of INSLAW. When SCT realized that INSLAW would not agree to be acquired, SCT, in may or June 1986, approached INSLAW's Unsecured Creditors Committee with an offer of several millions in cash to INSLAW's creditors in exchange for their support in the U.S. Bankruptcy Court of a forced acquisition of INSLAW.

Upon information and belief, SCT officials "scripted" members of SCT's state and local government sales force to make certain negative statements about INSLAW to governmental units that might be considering the purchase of INSLAW's software products or services. Included in the script, were remarks that DOJ does not like INSLAW, and that the American taxpayers, rather than INSLAW, own the software products that INSLAW was attempting to sell these units of government.

INSLAW filed a $30 million lawsuit against DOJ in U.S. Bankruptcy Court in June 1986, charging DOJ with tortious acts against INSLAW in violation of the federal bankruptcy code and briefly alluding to the biased conduct of Deputy Attorney D. Lowell Jensen. We believe DOJ instigated or encouraged SCT's hostile takeover bid in order to obstruct this litigation and preclude discovery of the conspiracy to get the INSLAW software and of the larger DOJ procurement fraud.

After INSLAW defeated the SCT hostile takeover bid in late August 1986 by obtaining a six-month extension in its period of exclusive time, we believe that DOJ took steps to deprive INSLAW

of effective litigation counsel at the law firm of Dickstein, Shapiro and Morin in order to obstruct justice. In sworn answers to INSLAW's interrogatories dated July 16, 1987, DOJ reported previously undisclosed communications about INSLAW between Attorney General Edwin Meese and Leonard Garment, the Dickstein, Shapiro and Morin partner who had represented Mr. Meese in Special Counsel Jacob Stein's 1984 investigation of Mr. Meese, and between Deputy Attorney General Arnold Burns and Mr. Garment. Dickstein, Shapiro and Morin has never disclosed the existence or content of these communications with INSLAW. Upon information and belief, Mr. Garment did not even disclose these communications to his then partner, Leigh Ratiner, who was then serving as lead litigation counsel for INSLAW.

Leigh Ratiner told us in October 1986 that Dickstein, Shapiro and Morin had asked him that month to leave the firm and that he believed that Leonard Garment instigated the firing because he had named D. Lowell Jensen in the complaint. We believe that Attorney General Meese and Deputy Attorney General Burns prevailed upon Mr. Garment to instigate the removal of Mr. Ratiner in order to deprive INSLAW of effective legal representation, and obstruct justice.

On March 17, 1987, Anthony Pasciuto, Deputy Director of DOJ's Executive Office for United States Trustees, met with us for breakfast at the Mayflower Hotel and told that Thomas Stanton, Director of the Executive Office for U.S. Trustees had applied political pressure in 1985 on both United States Trustee William White in Alexandria, Virginia, and United States Trustee Cornelius Blackshear in the Southern District of New York in an unsuccessful attempt to get those offices to cooperate with an improper DOJ plan to have INSLAW liquidated shortly after the Company came under the protection of the United States Bankruptcy Court on February 7, 1985. Mr. Pasciuto told us that Judge Blackshear had repeated this account in his presence to United States Court of Appeals Judge Lawrence Pierce in the Judge's Chambers in Foley Square.

Cornelius Blackshear left his position as United States Trustee and became a United States Bankruptcy Judge in the Fall of 1985. Beginning on March 18, 1987, INSLAW had the first of three telephone conversations with Judge Blackshear preceding his initial sworn deposition by INSLAW on March 25, 1987. In all of these conversations and in the sworn deposition, Judge Blackshear described the DOJ political pressure to bring about INSLAW's liquidation in much the same way as Mr. Pasciuto had described it at the breakfast meeting with the Hamiltons on March 17, 1987.

In an ex-parte meeting with a DOJ representative on March 26, 1987, Judge Blackshear prepared and signed a sworn affidavit recanting material portions of his sworn deposition testimony,

and contradicting the account that he had consistently given INSLAW during the course of the three pre-deposition telephone interviews.

During the trial before Judge Bason in May and June 1987 on INSLAW's Application to the Court for Assistance in Obtaining Independent Handling of the INSLAW Case at DOJ, Judge Bason chose to believe the original deposition and to disbelieve the affidavit recanting material portions of that deposition testimony. Mr. Pasciuto, after initially testifying that he had fabricated or exaggerated his statements to us at the March 17, 1987, breakfast meeting, acknowledged in testimony that Judge Blackshear had told substantially the same story in a meeting in the chambers of U.S. Court of Appeals Judge Pierce in early 1987 at which Mr. Pasciuto was present.

At the end of March 1987, Mr. William Tyson, formerly Director of the Executive Office for United States Attorneys, sent a handwritten letter to United States District Court Judge D. Lowell Jensen apprising Judge Jensen that Mr. Tyson had denied under oath that he had told William Hamilton in May 1983 that there was a Presidential Appointee at DOJ biased against INSLAW and that the Presidential Appointee was D. Lowell Jensen. Mr. Tyson vowed to continue denying this under oath. Mr. Tyson sent a copy of the letter to Deputy Attorney General Arnold Burns.

Upon information and belief, Mr. Tyson was removed from his position as Director of the Executive Office for United States Attorneys in February 1987 as a result of pressure on DOJ from United States Attorneys dissatisfied with the quality of service from the Executive Office for United States Attorneys, particularly in the area of personnel actions. Mr. Tyson and his Director of Personnel and Mr. Tyson's secretary were reassigned in February 1987 to DOJ's Immigration and Naturalization Service to positions commensurate with their then-current grade levels, including Mr. Tyson's Senior Executive Service (SES) position rating.

During the two-and-one-half week trial of DOJ liability for tortious acts against INSLAW in July and August 1987, Mr. C. Madison Brewer, Deputy Director of the Executive Office for United States Attorneys, testified that DOJ's Office of Professional Responsibility had begun an investigation into Mr. Brewer's alleged misconduct against INSLAW.

On September 28, 1987, Judge Bason announced his ruling in the liability trial against DOJ, and severely criticized the veracity of a number of DOJ witnesses who had testified during the trial, including Mr. Tyson, Mr. Brewer, Mr. Lawrence McWhorter, Acting Director of the Executive Office for United States Attorneys. Judge Bason also criticized the "circle the

wagon" attitude of other DOJ officials, including specifically Deputy Assistant Attorney General Stuart Shiffer of DOJ's Civil Division.

Since that ruling, upon information and belief, DOJ promoted Mr. McWhorter to Director of the Executive Office for United States Attorneys, and bestowed on Mr. McWhorter one of DOJ's three $10,000 bonuses for Fiscal Year 1987 that ended September 30, 1987. DOJ's Office of Professional Responsibility has not contacted anyone at INSLAW about its investigation of Mr. Brewer, and has not completed the investigation. DOJ bestowed on the Assistant Attorney General in charge of the Office of Professional Responsibilty, Mr. Michael Shaheen, one of DOJ's three $20,000 bonuses for Fiscal Year 1987. DOJ also bestowed one of its three $20,000 bonuses for Fiscal Year 1987 on Mr. Stuart Schiffer who is in overall charge of the attorneys defending DOJ in both the U.S. Bankruptcy Court and the Department of Transportation Contract Appeals Board. DOJ chose Mr. Jack Rugh to serve as its chief witness in the January 1988 damages trial and Judge Bason ruled that Mr. Rugh's testimony during the damages trial was deliberately designed to deceive the Court.

In October 1987, DOJ awarded a $40 million computer services contract to Hadron, Inc., whereby its Acumenics subsidiary will supply litigation support services to DOJ's Land and Natural Resources Division. According to press accounts, the contract award was pursuant to a competitive procurement.

Upon information and belief, DOJ fired Mr. Anthony Pasciuto as Deputy Director of the Executive Office for United States Trustees in February 1988, and has not undertaken any investigation of Mr. Thomas Stanton, Director of the Executive Office for United States Trustees, despite Judge Bason's ruling on June 12, 1987, that Mr. Stanton had abused his office by attempting to corrupt the federal trustees program against INSLAW, and Judge Basons' ruling on the same day that he found Mr. Stanton's sworn testimony "to be utterly incredible and unworthy of belief."

INSLAW, Inc.

1125 15th St., N.W. Suite 600 Washington, D.C. 20005
(202) 828-8600 TWX 710-822-0146 Cable INSLAW

William A. Hamilton, President

February 16, 1988

~~CONFIDENTIAL~~ Determined to be an administrative marking.

Rick Simpson, Esquire
Special Agent Dawn Estes
Office of the Independent Counsel
1111 18th Street, NW
Suite 500
Washington, DC 20036

Dear Rick and Dawn:

Enclosed is a confidential update to our memorandum of February 8, 1988.

Sincerely,

Bill Hamilton

William A. Hamilton

Enclosure

WAH:tbr

cc: Charles R. Work, Esquire

INSLAW, Inc.

1125 15th St., N.W. Suite 600 Washington, D C 20005
(202) 828-8600 TWX 710-822-0146 Cable INSLAW

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February 16, 1988

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MEMORANDUM FOR THE RECORD

FROM: William A. and Nancy B. Hamilton

SUBJECT: Possibility that the DOJ Fraud Against INSLAW is an Integral Part of a Much Larger DOJ Procurement Fraud

UPDATE ON FEBRUARY 16, 1988

(A) DOJ Informant Tells Senator Baucus' Office in June 1983 about Jensen and Meese Plan for DOJ-Wide Use of PROMIS Software and Sweetheart Contract

Upon information and belief, an informant employed in DOJ's Justice Management Division warned the staff of Senator Max Baucus in June 1983 that Lowell Jensen and Edwin Meese had a plan whereby, when Meese became Attorney General, they would install the PROMIS software product in every litigating office of the Department through the award of a "sweetheart" contract. The informant apparently assumed that the sweetheart contract would be awarded to INSLAW, Inc., because INSLAW developed and owned the PROMIS software.

When President Reagan nominated Edwin Meese to become Attorney General in January 1984, Senator Max Baucus asked the General Accounting Office, which was then investigating at his request the Department's overall procurement practices, to focus immediately on the INSLAW PROMIS contract with the Executive Office for United States Attorneys to test the validity of the tip about a sweetheart arrangement between the Department and INSLAW. The General Accounting Office obtained the actual official copy of the Department's INSLAW PROMIS contract, rather than a photocopy, because of the urgent need to complete the investigation in time for the expected confirmation hearings before the Senate Judiciary Committee on Mr. Meese's nomination. The Department inexplicably failed to include in the official file any reference to the order issued to INSLAW earlier that month "to show cause" why INSLAW's contract with the Executive Office for U.S. Attorneys should not be terminated for default. This was the attempted default action surprisingly approved by Lowell Jensen and the PROMIS Oversight Committee on December 29, 1983, in apparent disregard of the efforts of Jensen's then

superior, Deputy Attorney General Schmultz, to resolve the disputes amicably.

Through its Government contract counsel, INSLAW brought to the attention of the General Accounting Office the pending default action.

The panoply of "contract disputes" that had begun in mid-1983 and the pending default action in January 1984 apparently convinced the General Accounting Office that there was no "sweetheart" relationship between INSLAW and DOJ or Lowell Jensen.

We believe the DOJ informant was correct in reporting the plans of Lowell Jensen and Edwin Meese to install the PROMIS software in every litigating office of the Department of Justice, including the 94 U.S. Attorneys Offices, and the legal divisions. We also believe that Jensen and Meese intended to award a sweetheart contract, but only after the "sweetheart" company, Hadron, Inc., had acquired the PROMIS software through a DOJ-orchestrated series of sham contract disputes.

(B) Soon After Confirmation as Attorney General, Attorney General Meese and Deputy Attorney General Lowell Jensen Plan a Major DOJ Procurement to Standardize Case Management Systems in All of the Litigating Activities (Project Eagle)

Acting Assistant Attorney General for Administration Larry Wallace told INSLAW's William Hamilton in July 1985 that Attorney General Meese had expressed concern about the lack of consistent results from the various automated case management systems, including PROMIS, used among the Department's litigating offices, and, therefore, had, early in the Meese Administration, tasked the Department Resources Board chaired by Deputy Attorney General Lowell Jensen with analyzing the problem and recommending a solution.

Upon information and belief, Mr. Jensen, and Messrs. Brad Reynolds, Steve Trott and Larry Wallace, who then comprised the Department Resources Board, recommended in August 1985 that Attorney General Meese seek approval from the Office of Management and Budget for a major increase in the Department's computerization budget to permit, inter alia, the installation of identical case management systems in all litigating offices of the Department.

We believe that these actions by Meese and Jensen were steps taken to fulfill the plan that the DOJ informant described in June 1983 to Senator Baucus' staff.

Ironically, INSLAW's William Hamilton sent the attached July 22, 1985, letter to Acting Assistant Attorney General Wallace (Attachment A) suggesting that the PROMIS software was the most logical instrument for achieving the goals attributed to Attorney General Meese, and offering to negotiate a global license for DOJ-wide use of PROMIS. Mr. Wallace never responded to this letter.

On December 5, 1985, following, by one day, the final meeting with Deputy Atorney General Jensen in which Elliot Richardson and William Hamilton fruitlessly sought a negotiated settlement of the disputes, INSLAW's William Hamilton sent Mr. Jensen a copy of the July 22, 1985, letter to Wallace and, in a further irony, attempted to explain to Mr. Jensen in the letter of transmittal (Attahcment B) how the PROMIS computer software could be interfaced with a commercial DBMS (Data Base Management System). As our original memorandum explains, we believe that DOJ's Project Eagle DOJ procurement is premised on interfacing the PROMIS software with a commercial DBMS.

(C) United States Attorney for the Central District of California Steve Trott Predicts INSLAW Bankruptcy at National Meeting of U.S. Attorneys in April 1983

Upon information and belief, Steve Trott, shortly before moving from his position as United States Attorney in Los Angeles to succeed Lowell Jensen as Assistant Attorney General for the Criminal Division, spoke at a national meeting of U.S. Attorneys in Key West, Florida, in April 1983. Mr. Trott reportedly forecasted the imminent bankruptcy of INSLAW.

Mr. Trott's public forecast occurred several weeks before three institutional investors, including a leading high technology Wall Street investment bank, invested almost three-quarters of a million dollars in INSLAW, at a share price that valued INSLAW in May 1983 at $9 million.

We believe that Mr. Trott's statement was most likely based on information he received from his mentor, D. Lowell Jensen. If so, this may have reflected Mr. Jensen's knowledge that DOJ would soon take steps to wrongfully administer the INSLAW contract for the purpose of propelling INSLAW into bankruptcy.

Attachments

WAH/NBH:tbr

INSLAW, Inc.

1125 15th St., N.W. Suite 600 Washington, D.C. 20005
(202) 828-8600 TWX 710-822-0146 Cable INSLAW

William A. Hamilton, President

July 22, 1985

The Honorable W. Lawrence Wallace
Acting Assistant Attorney General
for Administration
Department of Justice
Room 1111
10th and Constitution Avenue, NW
Washington, DC 20530

Dear Larry:

In the course of our recent telephone conversation, you mentioned that the Attorney General is concerned about the lack of consistent results from the various automated information management systems in the Department, and has, therefore, directed the Department to conduct an analysis of such systems without regard to the usual organizational boundaries, i.e., cutting across the various litigating divisions, U.S. Attorneys Offices and so forth.

I would like to offer some ideas on the problem, including a proposal for what I believe is a uniquely effective and timely solution to the problem. I would welcome an opportunity to elaborate on these ideas for you and the resources board that is conducting the analysis, but, in the meantime, will briefly outline them for you in this letter.

The Department's current situation regarding information systems is somewhat analagous to a brief interlude in recent Chinese history referred to as the time when the Chinese Government "let a 1000 flowers bloom." Recoiling from a period of excessive centralization in the development and operation of information systems, the Department has allowed the pendulum to swing to the other extreme. Each bureau-like entity is free to develop and operate its own automated systems in total independence.

One result, predictably, is inconsistent reporting to the Attorney General of similar phenomena such as the frequency and reasons for case attrition and patterns of final dispositions. Another result is a high aggregate level of expenditure for automated systems in the Department as a whole, but an inadequate

level of investment in the on-going enhancement of any given system. The highly fragmented approach not only precludes consistency of results, but also eliminates any economies of scale, and, thereby, dissipates the value of the Department's investments in systems.

The solution lies in capturing the pendulum mid-way in its swing between excessive, initiative-stifling centralized direction and control, and the laissez-faire, "let a 1000 flowers bloom" approach.

The instrument for the necessary compromise is the mandating of standard software packages for various applications. Such packages will assure consistency of results across organizational boundaries, reduce initial development outlays because development costs are amortized over many users, and provide the necessary focus and economy of scale to justify a continuing stream of enhancements for all users.

Ideally, standardized packages should also provide considerable latitude to the various organizational units regarding the satisfaction of local needs. For example, users need to be able, without programming and without destroying the ability to take advantage of the centralized program of enhancements, to incorporate local needs into the data base design, to specify the numbers and types of on-line indexes, to determine the numbers and formats of input and output screens, to dictate the forms and documents to be produced, and to choose the kinds of local reports for the attorneys, managers and administrative support staffs. Each organizational unit should also have the option of running the software on centralized main frames, on mini-computers, on micro-computers, or on that combination of the various computing environments that best suits the particular organization.

Fortunately, one of the most important and pervasive activities of the Department of Justice is case management, and there exists a tried and proven software package that is readily adaptable to all of the organizational units of the Department.

INSLAW manufactures and provides an on-going program of enhancement for a family of case management software products that possesses the necessary features to permit consistent results across organizational boundaries while allowing a maximum amount of local options. The salient aspects of this technology from the perspective of the Department of Justice are as follows:

- It is thoroughly debugged and tested technology. This means that the Attorney General could bring about massive improvements immediately. There is no problem of long lead times for development.

- The software contains a module known as on-line tailoring that enables each bureau to adapt the package to its unique requirements without reprogramming, without jeopardy to the production of consistent results, and without any effect on the ability to take advantage of centrally developed enhancements.

- The software is an on-line, real time system with supplementary capabilities for batch entry and reporting. The software runs on mainframes (IBM and IBM-compatible machines such as the Amdahl machines that the Justice Management Division has), mini-computers (including various brands used in the Department such as the Prime 50-series, the Wang VS and the Digital VAX), and on micro-computers (any of about 50 brands that support the Unix System V operating system).

- The software includes a module known as data base adjustment that would enable the various divisions and bureaus to revise their data bases periodically without the need to develop special data conversion programs. This will facilitate changes in the systems to correspond with changes in legislation, policies, priorities, organizational structures, and procedures.

- The software includes the FORMPAC module for easy specification of output formats and computer-produced forms and documents; the SCREENPAC module for designing input screens that match the local data flow; the Generalized Inquiry Package for producing ad-hoc listings of cases; and the Management Report Package for producing customized statistical reports.

- The Department has already installed the software successfully in the 20 largest U.S. Attorneys Offices, on Prime mini-computers and in the Land and Natural Resources Division on a Justice Management Division Amdahl mainframe.

- The fact that the software is already operating in the civil and criminal divisions of the largest U.S. Attorneys Offices should simplify its tailoring for the Civil and Criminal Litigation Divisions. State Attorney General and Fortune 500 law departments are using the software for anti-trust and civil rights cases, underscoring its applicability to the Anti-Trust Division and the Civil Rights Division. The Government of Italy is using the software to manage its tax caseload, which is suggestive of its adaptability to the Tax Division. State and local jails and prisons are using the software to manage their detention facilities, underscoring the adaptability for

the Bureau of Prisons and the Immigration and Naturalization Service. The Federal Occupational and Safety and Health Review Commission uses the software for the management of administrative law hearings, functionally similar to those found in various bureaus of the Department, such as I.N.S. The U.S. Attorneys are also using the software for debt collection, an activity of the highest priority to the Reagan Administration that cuts across organizational boundaries in the Department.

A decision by the Department of Justice to mandate the INSLAW software as the standard software for case management applications in the Department would solve the problem of inconsistent results, allow the various bureaus the degree of latitude they must have to assure the responsiveness of the sytems to the varying operational requirements, and allow the Department for the first time to commit itself to an on-going program of deliberate product enhancement. The Department could implement such a decision immediately because the technology is fully developed, tested and debugged, and the Department already has extensive experience in its use.

In making such a decision, the Department would not only be addressing internal priorities, but would also be contributing to improvements in two of the larger universes in which it operates: federal agency management, and law enforcement and justice.

In regard to federal agency management, the General Accounting Office, in a report dated May 20, 1983, and entitled Federal Agencies Could Save Time and Money with Better Software Alternatives, urged the General Services Administration to promote the use of standard, vendor-developed application software packages for certain applications, such as case management, that cross over agency boundaries (p. 7). In Appendix II of the same report, the General Services Administration endorsed the concept and cited INSLAW and its case management software as the premier example of a successful approach to a standard software solution for a government-wide function (Appendix II, p. 25). In the same appendix to the GAO report, the Office of Management and Budget also endorsed the concept, but cautioned that such software needs to be developed with portability or transferability as an objective in order to keep later adaption and maintenance costs under control (Appendix II, p. 27). INSLAW designed its software with this objective in mind because of the need to facilitate transfers to local governments nationwide.

Regarding the law enforcement and justice community, the INSLAW software is the most widely used software in public prosecution agencies, trial and appellate courts, and jails. Wholesale adoption of the software for case management in the

Department of Justice would help assure a continuing stream of enhancements in operating efficiency, user friendliness, and breadth of functionality. These improvements would benefit local law enforcement and justice agencies nationwide at no additional cost to the Department of Justice. The Department, which spurred the initial use of computerized information systems by local law enforcement and justice agencies through its now-defunct Law Enforcement Assistance Administration, could resume its critically needed leadership role without re-creation of an expensive government program.

The mandating by large organizations of standardized software packages is becoming increasingly common, especially in the private sector, as companies attempt to avoid the Tower of Babel problem of independently developed systems that cannot talk to one another. Computer services companies have begun to respond to this need by offering special licensing arrangements, sometimes referred to as "site licenses," or "global licenses." INSLAW recently executed a contract with one of the largest insurance companies in the United States that includes such a feature, permitting the insurance company to install the INSLAW case management software on a variety of different types of computers and in a variety of different case management environments, such as claims litigation offices, claims processing offices, employee grievance offices, and general counsel offices.

I would very much appreciate an opportunity to discuss these ideas with you. I believe that the Department will continue to be frustrated in achieving satisfactory results from its automated sytems investments until it finds that elusive middle ground between excessive central direction and control and the "let a 1000 flowers bloom" approach.

Sincerely,

Bill

William A. Hamilton

Enclosure: GAO Report, Federal Agencies Could Save Time and Money with Better Software Alternatives, May 20, 1983

WAH:tr

INSLAW, Inc.

1125 15th St., N.W. Suite 600 Washington, D.C. 20005
(202) 828-8600 TWX 710-822-0146 Cable INSLAW

William A. Hamilton, President

December 5, 1985

The Honorable Lowell Jensen
Deputy Attorney General
U.S. Department of Justice
Washington, DC 20530

Dear Lowell:

Thank you for taking the time to meet with Mr. Richardson and myself yesterday.

I understand and agree with your statement about the disadvantages of having a multiplicity of incompatible case management systems among the various legal divisions and the U.S. Attorneys Offices. I wrote a letter to Larry Wallace on that subject last summer, proposing a solution to the problem. I have taken the liberty of enclosing a copy for you.

As you might imagine, I found your statement that the Federal Bureau of Investigation has the only advanced case management technology in the Department to be quite interesting. My last contact with the Bureau on case management technology was several years ago. At that time, the Bureau was planning to use a commercial Data Base Management System known as ADABAS on IBM mainframes and to develop an investigative case management application around the ADABAS data manager.

No matter what commercial DBMS is used for case tracking, it is still necessary to develop logic and write and debug code for the case management application. It would be technically feasible and economically advantageous to use the tried and proven PROMIS application code for this purpose. We could substitute ADABAS for our own data base manager.

The PROMIS application code has evolved into an extraordinary piece of work since you last saw it as mini-PROMIS some years ago. We have added capabilities to design input and output screens independently of the design of the data base, to produce unlimited numbers and types of forms and documents automatically from the data base without additional programming, and to make on-line computations to produce instantaneous tallies in response to various case management questions.

I would like to bring an IBM PC to your conference room and demonstrate the current version of the technology. I know that you have always attached great importance to information management technology, and I think you would find a 30-minute demonstration to be time well spent. We would be pleased to accommodate your busy schedule by doing the demonstration as early or as late in the day as you would like, or on a weekend.

Thank you again for your courtesy yesterday.

Sincerely,

Bill

William A. Hamilton

Enclosure

cc: The Hon. Elliot L. Richardson

WAH:tr

SIMPSON & EHRLICH, P.A.
LAW OFFICES
BETHESDA AIR RIGHTS BUILDING
7315 WISCONSIN AVENUE
SUITE 300 EAST
BETHESDA, MARYLAND 20814

GARY HOWARD SIMPSON
ALVIN McINTYRE EHRLICH

ATTORNEYS IN D.C. & MD

TELEPHONE
(301) 656-7013

March 17, 1988

Mr. Arnold I. Burns
Deputy Attorney General
U. S. Department of Justice
Main Justice Building, Room 4109
10th and Constitution Avenue, N.W.
Washington, D.C. 20530

Re: Anthony Pasciuto

Dear Mr. Burns:

I am writing on behalf of my client, Anthony Pasciuto, in response to Mr. B. Boykin Rose's letter proposing Mr. Pasciuto's removal from federal service. You should reject Mr. Rose's proposal for a number of reasons.

My client has witnessed a pattern of wrongful conduct by his supervisor, Mr. Thomas Stanton, and his failure to keep quiet about it undoubtedly led to his proposed removal from federal service. Mr. Pasciuto knew that Mr. Stanton: (1) purposely overran the office budget in FY 1985, as supported by an internal report and in FY 1986; (2) had modified, after the fact, time and attendance and travel records for himself and others; (3) threatened him with punishment if he, Mr. Pasciuto, did not rate employees improperly as directed; (4) intimidated, and harassed my client on a regular basis for two years, and (5) pressured U.S. Trustees regarding the INSLAW Corporation. Additionally, a series of employees left Mr. Stanton's office because of the way he abused them with impunity. Mr. Pasciuto complained to Mr. Stanton and the proper Justice Department officials about these abuses. After giving the federal government ten years of service punctuated with outstanding ratings and a cash award of $5,000 in 1984, Mr. Pasciuto's career took a nose dive after he discovered and went on record that his supervisor, Thomas Stanton, was violating federal law by running a deficit in the U.S. Trustee's program.

Mr. Pasciuto first reported his concerns about substantial deficits in the U.S. Trustee's office to Mr. Stanton. Beginning in May of 1985 Mr. Pasciuto told Mr. Stanton about deficits he was running. He then wrote to Mr. Stanton about a $200,000 deficit projection in a memorandum of December 23, 1985 and about a possible $300-350,000 overrun projection in a memorandum of February 20, 1986. Also, by mid-1986 Mr. Pasciuto was discovering and reporting to Mr. Stanton unapproved, inappropriate payments by the U.S. Trustee's office for travel and other matters.

Mr. Pasciuto later reported his concerns to the Office of Professional Responsibility on a number of occasions. In early 1986 he reported to OPR that he had concerns about the way that the budget was being managed and that he was being kept in the dark about matters of which he should have been aware. Mr. Pasciuto spoke to John Nash, Steven Benda and Gil Leigh, the Department of Justice's finance staff, on June 30, 1986 and informed them about budgetary deficits, abuses regarding travel and invoices and payments being made without records by Mr. Stanton. Therefore, by late 1986 Mr. Pasciuto had gone on record both with Mr. Stanton orally and in writing and with OPR and the finance staff that he, Mr. Pasciuto, had substantial concerns about financial indiscretions by Mr. Stanton.

Mr. Pasciuto's expressed concerns about Mr. Stanton did not endear him to his boss. Mr. Stanton called Mr. Pasciuto a traitor on September 10, 1986 when Mr. Stanton learned that the tentative results of an internal financial report by the Department found that Mr. Stanton was acting improperly. Mr. Pasciuto believed he was acting properly by facing up to the budgetary improprieties and knew his duty was to the government. His accounts to Justice Department officials may have been "traitorous" to Mr. Stanton but not to his real employer.

Mr. Pasciuto's reports were verified by an internal Justice Department audit. The final audit report finds that Mr. Stanton was circumventing procedures and his Deputy Director, Mr. Pasciuto (p. 5) and was failing to comply with the law by failing to make reports of deficiencies he knew about as required by law (p. 12). Finally Mr. Stanton advised Attorney General Edwin Meese about problems with the funds control process in a December 3, 1986 memorandum long after Mr. Pasciuto reported the problems to Mr. Stanton and other departmental officials.

Mr. Stanton made it abundantly clear to Mr. Pasciuto that he was going to pay a price for being a traitor, and not supporting him (Stanton) in the audit snafu. After the audit report came out Mr. Stanton tried to scapegoat Mr. Pasciuto by attempting to make it appear that Mr. Pasciuto was not warning him of deficits. Mr. Stanton's memorandum of October 31, 1986 accused Mr. Pasciuto of not keeping him informed about the deficit. Mr. Stanton had to back off of that position when Mr. Pasciuto reminded him of his numerous written reports of the deficit going back to December 23, 1985 in oral conversations and in his November 4, 1986 memorandum. Mr. Stanton then struck back at Mr. Pasciuto by relieving him of important job functions. On March 4, 1987 Mr. Stanton took Mr. Pasciuto's personnel function away from him and assigned it to Andrea Winkler a day later. Additionally Mr. Stanton regularly embarrassed Mr. Pasciuto by shouting at him in the presence of his staff.

By early 1987 Mr. Pasciuto clearly understood that Mr. Stanton wanted to fire him. The constant harassment he received, the scapegoating and the blame Mr. Stanton was trying to place upon him for the deficit problems was sending a clear message. Moreover, Mr. Pasciuto's friends told him that they understood that his days with the Department were numbered. And Mr. Pasciuto learned that Robert Ford, then Deputy Assistant General for Administration, said in a meeting in September of 1986 that if Mr. Stanton did not like the way Mr. Pasciuto was reporting about financial problems in his office he should go ahead and fire Mr. Pasciuto. By this time Mr. Pasciuto was actively looking for other employment, including the position of Assistant U.S. Trustee in Albany New York.

Mark Cunniff, a longtime friend of Mr. Pasciuto, asked him to meet with Nancy and William Hamilton, INSLAW's officers, in March 1987. Mr. Pasciuto felt that the Hamiltons should know that the Department of Justice was treating them unfairly. During the breakfast my client told the Hamiltons and Mr. Cunniff about Mr. Stanton's machinations in the U.S. Trustee's department as it related to INSLAW. This included information that Mr. Stanton had put pressure on Cornelius Blackshear, who had been a U.S. Bankruptcy Trustee in New York to assist the U.S. Bankruptcy Trustee in Alexandria, William White, to take over the INSLAW case by sending Judge Blackshear's assistant, Harry Jones, to Mr. White's office apparently for the purpose of converting INSLAW. Judge Blackshear had let Mr. Pasciuto know Mr. Stanton's plans in a conversation which had taken place on January 12, 1987.

Mr. Pasciuto learned in March 1987 that Judge Blackshear, who had recently become a judge, had given deposition testimony which corroborated Mr. Pasciuto's recollections of their conversation concerning Mr. Stanton's dealings with INSLAW and shortly thereafter recanted what he said in his depositions. Mr. Pasciuto also learned that William White could not remember his conversations with my client regarding INSLAW. When Mr. Pasciuto learned that Judge Blackshear and Mr. White were no longer remembering things they had discussed with him, he became very fearful. Mr. Pasciuto was now the only person with recollection of conversations with U. S. Trustees in which Mr. Stanton was identified as having put pressure regarding the INSLAW case. Other people's recollections were being erased by mechanisms best known to them.

Mr. Stanton put pressures of two different types on Mr. Pasciuto after he was subpoenaed on March 24, 1987 to testify in the INSLAW case. Within an hour of receiving that subpoena to testify in the INSLAW case, Mr. Pasciuto was given a copy of an appointment paper for a job as the Assistant United States' Trustee, Albany, New York, signed by Mr. Stanton. (Later on Mr. Pasciuto was told that the procedure "was changed" and that the Deputy Attorney General would have to sign off on the form in addition to Mr. Stanton in order for him to get the job. That never occurred and he did not get the job; this procedural change occurred after Mr. Pasciuto gave his testimony in the INSLAW case.) In reliance upon the signed appointment papers Mr. Pasciuto sold his house in Maryland and bought a house in Albany, New York. Additionally, Mr. Stanton threatened to reprimand Mr. Pasciuto on May 28, 1987 for not checking in on leave time with him personally on May 27, 1987. Mr. Pasciuto had never been reprimanded or received any discipline of any sort throughout his entire federal career and the negative message Mr. Stanton was sending at this particular time was obvious to Mr. Pasciuto. Therefore Mr. Pasciuto was between a real rock and a hard place; testimony against his already aggravated and aggravating boss could cost him his present as well as prospective employment on one hand and on the other Judge Blackshear and Mr. White were now taking different positions regarding the substance of conversations that they had had with him than they had earlier. Testimony from my client about his conversations with Judge Blackshear and Mr. White would make him look like the odd man out.

Mr. Pasciuto consequently had tremendous internal and external pressures upon him when he gave testimony in the INSLAW case on June 1 and 2, 1987. His concerns were compounded by the

fact that he had never been in a courtroom before and was not represented by counsel. The Justice Department attorney who was handling the INSLAW case, Mr. Dean Cooper, did not prepare him well for his trial testimony. (The paralegal who was taking notes during his preparation says that he has lost the notes of that meeting, thus making its reconstruction problematic.) His fears were further borne out. One of Mr. Cooper's first questions was "whether (he) had been seeing a doctor about a stressful condition." Mr. Cooper apparently knew that Mr. Pasciuto had been seeing a psychiatrist in connection with personal problems that he had been experiencing and Mr. Pasciuto felt that this was an attack upon him; he knew that the United States Department of Justice was prepared to stoop to the level of bringing his personal problems into the INSLAW case to get him to be careful about what he said.

Mr. Pasciuto was unfortunately, but understandably, overly circumspect about his testimony in the INSLAW case and tried to excuse his position by testifying primarily about the way Mr. Stanton had been treating him. Although that was part of Mr. Pasciuto's thinking it was not an expression of his entire motive or thought process in or talking to the Hamiltons at the March breakfast meeting. He talked to the Hamiltons because it was clear to him that their company was being victimized by a pattern of wrongful conduct by Mr. Stanton and the Justice Department.

Mr. Stanton's pressures on Judge Blackshear and Mr. White to convert INSLAW to a Chapter 7 to a Chapter 11 Bankruptcy cannot seriously be denied:

1. In Judge Cornelius Blackshear's first deposition dated March 25, 1987, he testified that William White had told him that Mr. Stanton had pressured White to convert the INSLAW case. (Tr. at 8-10) Judge Blackshear also made substantially the same statements orally to Judge Jane Solomon on March 18, 1987. Cornelius Blackshear made statements to Judge Jane Solomon on March 18, 1987 and repeated them to Marcia Docter, Esq., on that same day. (See Nancy Hamilton's notes of Marcia Docter's report on this conversation.) Statements made by Judge Cornelius Blackshear to Charles Docter on March 20, 1987. (See Nancy and William Hamilton's notes of report of Charles Docter of this conversation.) Statements made by Judge Cornelius Blackshear to Charles Docter, Michael Lightfoot and Brian O'Neill in a conference call on March 24, 1987. (See notes of Michael Lightfoot, Esq., and Brian O'Neill, Esq., of this conversation.)

2. DOJ Contracting Officer Peter Videniek's notes of a February 18, 1985, telephone call with Jack Rugh, Assistant Director of the Executive Office for U.S. Attorneys in which he wrote "Brick (Brewer) talked to Stanton, 'no way 11, will be 7.'"

3. INSLAW software engineer Gregory McKain's notes and testimony that at approximately the same date Jack Rugh also called him and said: "we talked to the trustees who say that INSLAW will not make it in Chapter 11 and it will probably be a Chapter 7 in 30 to 60 days."

4. Handwritten notes of White, undated, but apparently written in approximately February 1985 which were turned over in discovery in the INSLAW case to the Plaintiff have the name of Harry Gastley, Assistant General Counsel of the Justice Management Division at the top of the first of two pages. On the second page, White has written the words, "possible conflicts: conversion vis-a-vis the rest of Justice Trustee (friends of Justice)." Mr. White is in the position of having denied in court any knowledge of a possible INSLAW conversion but having written about it before his testimony.

5. After Mr. Pasciuto was deposed, but before his testimony at trial, he told a Justice Department employee that Bill White told him that he was being pressured on the INSLAW case.

Mr. Stanton's pressures on Judge Blackshear to convert INSLAW from an "11 to a 7" were reaffirmed by Judge Blackshear. On July 11, 1987 at the home of Harry Jones[1] at six in the evening, Judge Cornelius Blackshear came up to Mr. Pasciuto as he and his wife were leaving Mr. Jones' home to go back to Albany. Judge Blackshear said to Mr. Pasciuto, "I am sorry, it will be all right." Mr. Pasciuto said, "No, it is not going to be all right, they are going to fire me." Judge Blackshear responded, "They are not going to fire you, don't they know how much you know?" Mr. Pasciuto said, "Yes, but they don't care." Judge Blackshear said, "But you told the truth." Mr. Pasciuto said, "Of what importance is the truth if everyone else is lying?" Judge Blackshear said, "These people came up from Washington and the U.S. Attorney's Office; I got confused." Judge Blackshear said, "I thought that by changing my story I would hurt less people." Judge Blackshear went on to say: "I didn't know you were subpoenaed until I saw your testimony which was sent to me by Barbara O'Connor." After Mr. Pasciuto said: "Do you remember what we talked with Judge Pierce about?" Judge Blackshear replied: "They sent someone from Washington and someone from the U.S. Attorney's Office. Judge Blackshear also received two telephone calls from Bill White that same day. "I felt the

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[1] Now U.S. Trustee for the Southern District of New York in New York.

easiest thing to do was recant. I felt less people would be hurt if I just bailed out." Judge Blackshear said that Mr. White told him he had the wrong case and that implications being that he had experienced some pressure to convert another case. Mr. Pasciuto said, "You were being asked to convert another case?" Cornelius Blackshear said, "I don't want to get into it and who the hell cares."

The foregoing facts compellingly rebut the Boykin Rose's and Michael E. Shaheen, Jr.'s, counsel of the Office of Professional Responsibility, conclusion that there was no basis to believe that Stanton was pressing for INSLAW's conversion. Judge Bason's ruling against the Justice Department in the INSLAW case belies Mr. Rose's and Mr. Shaheen's positions.

There is additional evidence that any reasonable investigation would disclose that the Justice Department was doing everything that it could do to injure INSLAW. For example, Robert Hunneycutt, when he worked in the Department of Justice Finance Office in June of 1984, told Mr. Pasciuto about his practice of paying certain contractors' bills. During their conversation he said that he had divided invoices into three piles. One pile he would pay right away; the next pile when he got around to it; and then he opened a drawer and pointed to some invoices in the drawer and said: "These invoices may never get paid." Mr. Pasciuto asked why and he said: "If you are on the bad list you go to this drawer." Mr. Pasciuto asked who was in that pile and he said that INSLAW was an example and that "people in the U.S. Attorney's Office don't like INSLAW, they are in this pile."

Justice Department employees' concerns about having to give testimony regarding the INSLAW problem were voiced by Mr. Hunneycutt. In May 1987 Mr. Hunneycutt stated to Mr. Pasciuto in the corridor of the Executive Office of the U.S. Trustees, "I don't understand why I haven't been subpoenaed in the INSLAW case." Mr. Pasciuto asked why and Mr. Hunneycutt replied that he had withheld payment on their invoices.

Mr. Hunneycutt's withholding payments on the INSLAW invoices as well as other invoices for other companies is known by employees other than Mr. Pasciuto. For example, other employees told Mr. Pasciuto in July 1987 that Mr. Hunneycutt had told them that he had withheld payments on INSLAW invoices. Furthermore, another employee told Mr. Pasciuto that he had independent knowledge from having worked in the Justice Management Division that Mr. Hunneycutt had deliberately withheld payments of contractors' bills.

Mr. Rose's removal letter fails to state a proper legal basis for discharging my client and violates several legal principles. First, Mr. Pasciuto's statements to the Hamiltons constitute a protected "whistle blowing" which came only after the Department of Justice failed to heed Mr. Pasciuto's warnings about Mr. Stanton's inappropriate conduct. Second, these statements are protected by First Amendment speech because they related to matters of public concern. Third, the removal is being based, at least in part, upon the fact that Mr. Pasciuto gave court and deposition testimony; this testimony is privileged and may not form the basis for a termination. Fourth, contrary to Mr. Rose's and Mr. Shaheen's findings to the contrary, Mr. Pasciuto did not cause the Justice Department to erroneously lose the INSLAW litigation. Judge Bason's decision did not rely upon Mr. Pasciuto's testimony in any significant way.

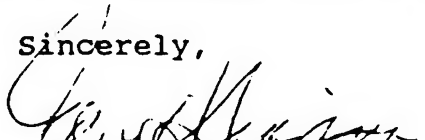
A fair consideration of Mr. Pasciuto's career militates in favor of a penalty, if one is to be imposed, other than removal. Mr. Pasciuto graduated from the University of Massachusetts in 1965 and received a Master of Arts in Public Administration in 1966 from the Graduate School of Public Affairs, State University of New York at Albany. From 1967 to 1968 he worked in the New York State Government. From 1968 to 1972 he was the Assistant Dean of the School of Criminal Justice at the State University of New York in Albany. From 1972 to 1974 he was the Assistant Director of the City and County of Denver, High Impact Anti-Crime Program. From 1974 to 1976 he was the Chief Administrative Officer of the Criminal Justice Research Center, Inc. in Albany, New York. From 1977 through 1978 he was a Program Analyst of the Law Enforcement Assistance Administration of the U. S. Department of Justice. From 1978 to 1981 he was a Social Science Program Analyst at the National Institute of Justice which is part of the Justice Department. Also in 1981 he was a Management Analyst of the Executive Office for U. S. Trustees at the U. S. Department of Justice. From 1981 to 1983 he was the Chief of Administrative Services at the Executive Office for United States' Trustees in Washington, D.C. Since 1983 Mr. Pasciuto has been the Deputy Director for Administration at the U. S. Department of Justice in Washington, D.C. His ratings in the years 1983 through 1986 were all "Outstanding" and he received a $5,000 cash award in 1984. Additionally, Mr. Pasciuto had received special commendation from the Mayor of Denver, Colorado and the President of the State University in Albany, New York, for his service to the City and County of Denver and to the students and faculty of the University. His twenty-one year career has been dedicated to government service and it has been recognized by his peers as superlative.

Finally, there are mitigating circumstances to be considered which weigh against firing Mr. Pasciuto. Mr. Pasciuto has not demonstrated a pattern of actions hostile to the government or to his supervisor. Any strain on the supervisor/supervisory relationship was caused by Mr. Stanton and perpetuated by him in reaction to Mr. Pasciuto's insistence that federal financial laws be honored and as a result of Mr. Pasciuto's disclosures of Mr. Stanton's wrongdoing to the appropriate Justice Department officials and the OPR and finance departments. He was understandably perturbed by Mr. Stanton's pattern of illegal acts, and abusive, manipulative conduct. Moreover, statements made during one breakfast, out of an entire federal career of 11 years, in the context of this case and my client's career, should not be used to fire him. Mr. Pasciuto has been rated as an outstanding employee for years; his performance both before and after the breakfast meeting was outstanding. The charges are based upon an event which occurred approximately nine months ago; they are stale charges. Mr. Stanton's misconduct of which the Department has been aware has drawn no sanctions making this removal action a selective one.Finally, the conduct of other Justice Department employees created the circumstances and environment which placed Mr. Pasciuto in a highly charged and conflicting situation.

Mr. Pasciuto respectfully requests that he not be dismissed. A lesser sanction, to the extent one is necessary, such as a reprimand or short suspension, would be more appropriate. For your information, Mr. Pasciuto is actively searching for alternate employment. If the removal action is vacated, which will facilitate his job search, Mr. Pasciuto will resign his position with the Department of Justice as soon as he obtains another job but no later than two months from now.

We are prepared to make an oral presentation of our position for your consideration. Should you wish to grant us that opportunity, please contact my office to arrange such a meeting.

Sincerely,



Gary Howard Sampson

GHS/js
cc: Mr. Anthony Pasciuto
Richard Ben-Veniste, Esquire

Beneath Contempt

Did the Justice Dept. Deliberately Bankrupt INSLAW?

By MAGGIE MAHAR

The INSLAW Bankruptcy: Rank Injustice Page 16

"A VERY strange thing happened at the Department of Justice . . ."

What that very strange thing was was described in clear and exhaustive detail in Judge George Bason's blistering ruling before a packed Washington, D.C., courtroom last September. In a quiet voice, Bason, a 56-year-old federal bankruptcy judge with a reputation for being meticulous in his judicial approach, told the astonishing story of INSLAW vs. the United States of America.

In his ruling on the case, Bason explained how "through trickery, deceit and fraud," the U.S. Department of Justice "took, converted, stole" software belonging to INSLAW, a Washington-based computer software firm. In 1982, INSLAW signed a $10 million contract to install its case-tracking software, PROMIS (Prosecutor's Management Information System) in the Justice Department's offices. But instead of honoring the contract, Bason asserts, Justice officials proceeded to purposefully drive the small software company into bankruptcy, and then tried to push it into liquidation, engaging in an "outrageous, deceitful, fraudulent game of cat and mouse, demonstrating contempt for both the law and any principle of fair dealing."

Ultimately, the series of "willful, wanton and deceitful acts" led to a cover up. Bason called statements by top Justice Department officials "ludicrous . . . incredible . . . and totally unbelievable."

Some of the evidence against the department came from one of its own. During the course of the litigation, Anthony Pasciuto, deputy director of the department's Executive Office for United States Trustees, met secretly with INSLAW'S president, William Hamilton. At that breakfast meeting at the Mayflower hotel, Anthony Pasciuto told Hamilton and his wife, Nancy, how the Justice Department had pressured Trustee officers to liquidate their company. Later, a superior confirmed Pasciuto's story. But at the trial, a horrified Pasciuto listened while his superior changed his testimony. Close to tears, he, too, recanted.

Judge Bason believed Pasciuto's original testimony, however. On Feb. 2, 1988, he ordered Justice to pay INSLAW about $6.8 million in licensing fees and roughly another $1 million in legal fees. Bason wasn't sure whether he could assess a department of the U.S. government with punitive damages. If so, damages could run as high as $25 million. Bason struggled with that legal question and finally postponed the decision to a later date.

Now, no one knows how Judge Bason would have ruled on the question of damages. In November, Judge Bason rejected a Department of Justice motion to liquidate INSLAW. A scant one month later, the Harvard Law School graduate and former law professor discovered that he was not being reappointed. The decison to replace him followed from a recommendation made by a four-man merit selection panel appointed by the chief circuit judge, Patricia Wald, a former Justice Department employee. The panel was headed up by District Judge Norma Johnson, another former Justice Department lawyer.

Judge Bason stepped down in February. He was replaced by S. Martin Teel Jr., 42, one of the Justice Department lawyers who had unsuccessfully argued the INSLAW case before Bason. Even jaded, case-hardened Washington attorneys called the action "shocking" and "eerie."

INSLAW'S case will be assigned to another judge for disposition of damages. Meanwhile, the Justice Department is appealing Judge Bason's initial $8 million award to U.S. District Court. And, last week, the Internal Revenue Service descended on the Hamiltons, demanding that the bankrupt company pay $600,000 in back taxes—immediately.

"I restrained the IRS from going after the Hamiltons personally—just a few days before I left the bench," Bason recalls. "But that restraining order lasts only 10 days. I don't know what's happening now."

"It seemed as if the controversy was winding down," observes INSLAW'S former attorney, Leigh Ratiner. "It would follow a natural course in the press, and then fade from view." Inslaw would become another shocking event that slinks off into obscurity: Someone occasionally might dimly remember and idly ask, "What ever did happen to Bill Hamilton and those INSLAW people? A real shame . . . I heard the judge was back teaching law somewhere. . . ."

But at the end of last week Anthony Pasciuto instructed his lawyer to write a letter to Deputy Attorney General Arnold Burns. Pasciuto has decided to tell the full story that he began telling at the Mayflower last spring. And, in an interview with *Barron's* at the end of the week, Pasciuto explained how the Justice Department blacklisted INSLAW. It was a tale that involved two U.S. trustees, a federal judge who told two versions of the same story, and a Justice Department that rou-

tinely refused to pay certain suppliers: "If you're on the bad list, you go in this drawer," another Justice Department employee explained to Pasciuto.

Pasciuto knows what happened—but not why. In the trial, INSLAW claimed that C. Madison "Brick" Brewer, the Justice Department employee responsible for administering the department's $10 million contract with INSLAW, held a grudge against the company: INSLAW's Hamilton had fired Brewer in 1976. But since the trial, Hamilton has become convinced that Brewer alone could not have been that powerful. Bason's removal and Pasciuto's account suggest that what motivated the remarkable behavior of the Justice Department was something of greater moment than a middle-level employee's petty grievance.

Indeed, three people have lost their jobs as a result of the INSLAW scandal—but not, paradoxically, those responsible for the scandals. The trio of victims includes Judge Bason and Pasciuto—who received notice that he would be fired after he tesitifed, and just two days after Judge Bason was informed that he would not be reappointed. The third casualty of the Inslaw affair was Leigh Ratiner, a former partner at Dickstein, Shapiro and Morin, the firm that represented Edwin Meese during his confirmation hearings for Attorney General.

Why Bason and Pasciuto got the axe can easily be inferred. Ratiner's forced departure is a little more complicated. In January 1986, Elliot Richardson asked Ratiner to take on INSLAW'S defense. Ratiner agreed, and named D. Lowell Jensen, then the Deputy Attorney General, and a long-time Meese friend, in a complaint. Not long after, Meese discussed the case with another Dickstein, Shapiro partner, Leonard Garment, the attorney who, along with E. Robert Wallach, represented Meese in his confirmation hearings. Meese acknowledged the conversation in a pretrial interrogation. Shortly thereafter, his partners at Dickstein, Shapiro asked Ratiner to resign.

The Senate's Permanent Subcommittee on Investigations is now looking into INSLAW—a sign that the lawmakers, too, think that the whole story of the "something strange" that happened in the Justice Department has yet to be told. The Hamiltons' attorneys aren't sure why a department of the U.S. government wanted to liquidate their company. Anthony Pasciuto doesn't know. Judge Bason is still trying to piece together who had it in for him and why. But Bason, Hamilton and the attorneys involved in the case are beginning to define the pieces of the puzzle with some pointed questions.

Why did the Justice Department hire Brick Brewer, a former INSLAW employee, to supervise a contract with his former employer? "The person is going to be biased in favor of the former employer—or he is going to be biased against the former employer," Bason pointed out in his decision.

The judge also noted that D. Lowell Jensen, the former deputy Attorney General named by Ratiner in his complaint, was questioned on this issue. Jensen, now a federal judge in California, "recognized the general principle that it is a bad idea" to hire a former employee, disgruntled or otherwise, for such a task, Bason observes. But, Bason wrote, he was amazed to find "no hint in Jensen's testimony that he recognized there was any possible applicability of that general principle to the case of Mr. Brewer and Inslaw."

Hamilton discloses that Mr. Jensen himself was already familiar with INSLAW. Hamilton ran into Jensen in the early 1970s, when Hamilton was developing PROMIS, the case-tracking system that he contracted to sell to the Justice Department. At that time, Jensen, a long-time friend of Ed Meese, was district attorney in Alameda Country in northern California, developing his own computerized case-tracking system, DALITE. Jensen competed with Hamilton's PROMIS head-on-head. PROMIS won.

Hamilton and others familar with the case ask: Could Jensen still be feeling competitive? People who have "tracked" the INSLAW case point to the coincidences of timing: INSLAW'S problems with the Justice Department erupted soon after Jensen was promoted to Associate Attorney General—the No. 3 person in the department—in 1983.

Hamilton reveals another curious coincidence: About 90 days before the Justice Department contract began to fall apart, he received a phone call from Dominic Laiti, chairman of Hadron Inc., a company in which Earl Brian, a long-time Meese colleague, holds an interest (*Barron's*, Jan. 11). Brian's Infotechnology controls four of six seats on Hadron's board. Laiti told Hamilton, according to Hamilton, that Hadron intended to become the dominant supplier of computer software and services to law enforcers and courts and related agencies, and that Hadron wanted to buy INSLAW. "We have ways of making you sell," Hamilton quotes Laiti as saying.

Laiti insists: "I have no memory of this. It all sounds ridiculous to me."

The bizarre web of coincidences and connections includes AT&T. AT&T had a contract with INSLAW and, during bankruptcy proceedings, declared itself a major creditor. Then, Hamilton alleges, AT&T's attorney began to behave less like someone representing a creditor interested in salvaging the company than like an attorney for the Justice Department bent on liquidating it. More coincidences: AT&T's outside counsel, Ken Rosen, was with an obscure New Jersey firm, but formerly had been a member of Deputy Attorney General Burns's New York law firm. Rosen's co-counsel, Shea & Gould, is not AT&T's usual outside counsel, either, though it is the firm used by Earl Brian.

Bason questions the failure of high Justice Deparment officials to take any action to investigate serious allegations of misconduct. Both Hamilton and his attorney, Elliot Richardson, complained about Brewer's handling of the contract, and requested an investigation.

"There's such a contrast between the total inaction on the part of Justice Department regarding Mr. Brewer—and the hammer and tongs approach they're using with Mr. Pasciuto," Bason observes.

Last Thursday, Pasciuto's attorney, Gary Simpson, delivered his letter to Deputy Attorney General Burns—and met with the Senate committee. At the end of the week, that committee met with Bason, as well. Senator Nunn's committee may find some answers—and ask more questions—that will illuminate this bizarre story.

For now, Pasciuto does know what happened to him, and his tale provides a window on the strange thing that happened to INSLAW.

In March of 1982, William Hamilton could probably envision his face on the cover of Fortune. He had just won the $10 million, three-year contract with the Justice Department to install PROMIS in the department's 20 largest U.S. Attorney's offices, and to develop a separate program for its 74 smaller offices. Hamilton, who had contracts with private firms as well, now had a deal with the nation's premier law firm: the Department of Justice.

PROMIS was unique, and those 94 U.S. Attorney's offices represented an entering wedge: Hamilton could dream of capturing the federal judicial system's entire caseload. In the fiscal year October 1, 1982, INSLAW's revenues went up about 35% to $7.8 million, with more than half of those revenues coming from the Justice Department contract.

But then, that funny thing happened. The Justice Department began postponing payments. In July 1983, Hamilton says, the department suspended nearly $250,000 in payments, alleging that the company was overcharging the government for time-sharing. In February 1985, the government terminated the contract with smaller offices that had been generating revenues of $200,000-$300,000 a month.

INSLAW's cash flow shriveled. By Feb. 7, 1985, the government had withheld $1.77 million. Inslaw twisted and turned, trying to negotiate with the Justice Department, desperate to find out what went wrong. Finally, in financial shambles, INSLAW filed for bankruptcy in late February. The Department of Justice kept the INSLAW software—and kept on using it.

In his decision, Bason compares the Justice Department to someone who decides to test drive an automobile: "So the customer drives off with the car and this is the last the dealer ever sees of him. I think that is approximately what the Department of Justice has done in this case."

In last week's letter to Deputy Attorney General Burns from Pasciuto's attorney, Gary Simpson, Pasciuto suggests a pattern of harrassment that helped drive INSLAW into Chapter 11. According to Pasciuto, in June of 1984, Robert Hunneycutt, who worked in the Department of Justice's finance offices, told him about his practice of dividing contractors' bills into three piles. "One pile he would pay right away; the next pile when he got around to it; and then he opened a drawer and pointed to

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some invoices in the drawer and said: 'These invoices may never get paid.'" Honneycutt then identified such invoices as belonging to companies on the "bad list."

"Mr. Pasciuto asked who was in that pile," the letter to Burns goes on, "and he said that INSLAW was an example and that 'People in the U.S. Attorney's offices don't like INSLAW, they are in this pile. . . .'"

When *Barron's* phoned Hunneycutt, he returned the call, and left this message: "Mr. Hunneycutt knows nothing." In a subsequent conversation, he denied the conversation with Pasciuto.

But Hamilton claims that the Justice Department was trying to starve INSLAW. They didn't just push to bankrupt the software firm, he insists, they wanted to liquidate it, converting it from Chapter 11 to Chapter 7, as soon as possible. Why? Hamilton speculates that Justice may have wanted to push INSLAW into an auction where PROMIS could be purchased cheaply by someone that the department viewed more favorably.

Indeed, the Justice Department did move for liquidation. And on St. Patrick's Day 1987, Anthony Pasciuto met with the Hamiltons at the Mayflower and gave them a fuller picture of what was happening to them. A mutual friend, Mark Cunniff, executive director of the National Association of Criminal Justice Planners, asked Pasciuto to go to that breakfast meeting at the Mayflower.

"I said, 'Don't you know what you're asking me to do?'" Pasciuto recalls. "He said, 'I know.'"

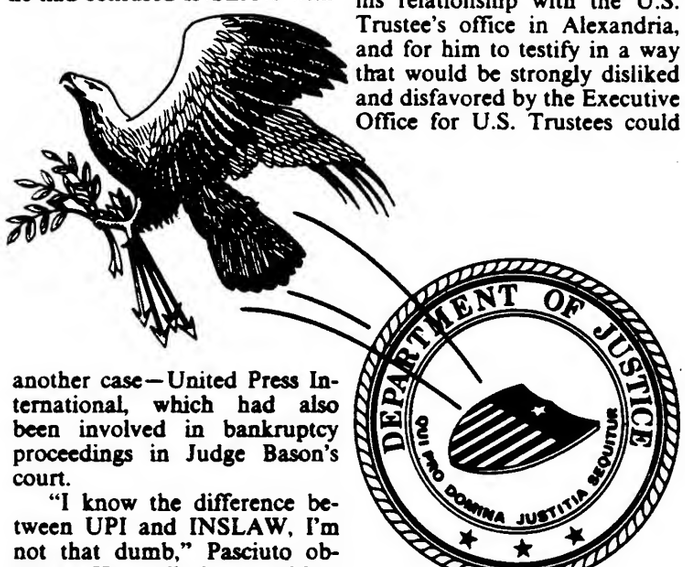
"I knew him for 19 years," Pasciuto explains. "I said, 'Mark, I'm doing it for you—and for these poor people.' I knew they had five kids," adds Pasciuto, a graying 44-year-old All-American "nice guy" with a strong Boston accent, and an open, slightly pockmarked face. Pasciuto has been married for 21 years, in government service for 21 years, and still wears his class ring—U. of Mass., 1965.

So, at the Mayflower, Tony Pasciuto remembers he tried to help Bill and Nancy Hamilton—and confirmed their most paranoid fantasies: The Justice Deparment was out to get them.

At the meeting with the Hamiltons Pasciuto told them that his boss, Thomas Stanton, director of the Justice Department's Executive Office for U.S. Trustees, was pressuring the federal trustee overseeing the INSLAW case. William White was being pressed to liquidate INSLAW. According to Pasciuto, in 1985 White told him that he was resisting the pressure. As a result, White informed Pasciuto, Stanton denied White's Alexandria office administrative and budgetary support and, at the same time, tried to have an assistant from the U.S. Trustee's office in New York take over the case and convert it.

The Hamiltons were told by Pasciuto that Cornelius Blackshear, the U.S. trustee in New York at the time of INSLAW's Chapter 11 filing, knew all about Stanton's plan. Pasciuto said that Judge Blackshear had repeated this tale of pressure in the presence of United States Court of Appeals Judge Lawrence Pierce in the judge's chambers in Foley Square in New York. Pasciuto also told the Hamiltons that the Justice Department had blacklisted INSLAW on the department's computer system procurements.

On March 25, 1985, INSLAW's lawyers deposed Blackshear, and he confirmed the story of pressure to liquidate INSLAW. The very next day, March 26, Blackshear met with a Justice Department representative, and signed a sworn affidavit, recanting, and saying that he had confused INSLAW with another case—United Press International, which had also been involved in bankruptcy proceedings in Judge Bason's court.



"I know the difference between UPI and INSLAW, I'm not that dumb," Pasciuto observes. He spells it out with a finger: "U— P— I."

Cornelius Blackshear left his position as United States Trustee and became a United States bankruptcy judge the following fall.

According to Pasciuto, Judge Blackshear discussed INSLAW in Judge Pierce's chambers. But when questioned on the point, Judge Pierce told *Barron's*: "I have made it my business not to get into the particulars of whatever Tony [Anthony Pasciuto] got himself into the middle of. Apparently, he thought his employer was doing something that was not kosher. I told him I didn't want to know about it—if he needed to, he should hire an attorney."

When *Barron's* offered to recount the details Pasciuto allegedly discussed in his presence, the judge grew agitated: "Don't tell me—I don't want to hear it. I don't want to know about it."

"I did ask him for help—six months before it all happened. I didn't know what to do," Pasciuto recalls. "Judge Pierce and I go back to the time when I was an assistant dean at the School of Criminal Justice in Albany—in 1972. He was a visiting faculty member for one year. We became good friends. I considered him a father figure."

In his ruling, Judge Bason noted that Blackshear had given "two different versions of the same event" and decided that other evidence supported the first version. White also denied the story of political pressure in court and Judge Bason asserted in his June 1987 ruling, "What I do believe is that Mr. White has a capacity to forget . . . a capacity which probably all humans share to some degree or another."

Judge Bason went on to point out: "Mr. White has just recently joined a large law firm that practices primarily in Virginia and primarily in bankruptcy matters. Mr. White's future with the firm that he so recently joined could well be dependent on income-producing work that he does. . . . It seems to this court that Mr. White is not in a position at this point in his career to jeopardize his relationship with the U.S. Trustee's office in Alexandria, and for him to testify in a way that would be strongly disliked and disfavored by the Executive Office for U.S. Trustees could well have an adverse impact on the relationship between the executive office and the Alexandria office and, in turn, a relationship between Mr. White and the Alexandria office."

But in late spring of 1986, White was still a U.S. Trustee, and Pasciuto recalls one more incident involving INSLAW. White called Pasciuto and asked for an extra filing cabinet for his INSLAW files. "I said, 'You've got plenty of them over there,'" Pasciuto recalls. White responded, "I know, but I need another one because I need to put all the INSLAW files in one cabinet and lock it."

White was discreet. So, on June 1, 1987, when Anthony Pasciuto walked into that packed D.C. courtroom to take the stand in the INSLAW case, he knew that White would not support his story. He also knew that Judge Blackshear had changed his original story. As Pasciuto's lawyer puts it in the letter to Burns: "Mr. Pasciuto was now the only person with recollection of conversations with U.S. Trustees in which Mr. Stanton was identified as having put pressure regarding the INSLAW case. Other people's recollections were being erased by mechanisms best known to them."

Pasciuto's boss, Stanton, apparently put his own pressure on Pasciuto. Beginning in 1985, according to the letter to Burns, Pasciuto began reporting his concerns about substantial deficits in the U.S. Trustee's office to Stanton. In 1986, Pasciuto spoke to the Department of Justice's finance staff and by late 1986, he says he had gone on record with the Office of Professional Responsibility about financial indiscretions by Stanton. According to Pasciuto, Stanton in September 1986 called him a "traitor." Pasciuto began actively looking for other employment, including a job as Assistant U.S. Trustee in Albany, N.Y. But no transfers were available for Anthony Pasciuto—until he was subpeonaed to testify in the INSLAW case.

"Within an hour of receiving that subpeona to testify, Mr. Pasciuto was given a copy of an appointment paper for a job as the Assistant United States Trustee, Albany, New York, signed by Mr. Stanton," Simpson, Pasciuto's attorney, reports in last week's letter to Burns. After the trial was over, however, Pasciuto was told that the procedure "was changed" and that the deputy Attorney General would have to sign off on the form. That never happened.

But Pasciuto, who believed the signed appointment papers, sold his house in Maryland for $200,000 and bought a house in Albany for $250,000. On the day the movers came, he was told that the sale of the Maryland house had fallen through. "We had to move, we had to carry two houses—and we couldn't even move into the Albany house yet because the owners wouldn't be moving out for a month," Tony Pasciuto recalls. "So, we stayed with in-laws for a month." That was May 22, 1987. Nine days later, Tony Pasciuto walked into court.

When he entered the courtroom on June 1, 1987, Pasciuto was not represented by counsel. According to Simpson, his attorney: "The Justice Department attorney who was handling the INSLAW case, Mr. Dean Cooper, did not prepare him well for his trial testimony. The paralegal who was taking notes during the witness preparation says that he has lost the notes of that meeting."

When the questioning began, Pasciuto must have realized that the Justice Department attorney was not going to guide him gently through his story. One of Cooper's first questions was "whether [Pasciuto] had been seeing a doctor about a stressful condition."

In his letter to Burns, Simpson explains: "Mr. Cooper apparently knew that Mr. Pasciuto had been seeing a psychiatrist in connection with personal problems that he had been experi-

encing and Mr. Pasciuto ... now knew that the United States Department of Justice was prepared to stoop to the level of bringing his personal problems into the INSLAW case to get him to be careful about what he said."

Apparently, the tactics worked. Pasciuto recanted, saying that the statements he made to the Hamiltons at the Mayflower were made in an effort to hurt Stanton, who was blocking his promotion.

Judge Bason remembers the scene: "Mr. Pasciuto seemed to be basically a very honest person who had been caught up amongst a gang of very tough people—and he just didn't know what to do. He was a career federal employee and he was petrified. He probably had a vision of losing his job, his marriage, everything. Probably he thought the only way he could save anything was to recant. I had to adjourn at one point during his testimony—he was close to tears."

But Pasciuto didn't save his career. And now, in the letter to Burns, he has come forward to make a full disclosure.

Last week's letter to Burns contains a compelling, painful vignette of a chance meeting between Pasciuto and Blackshear, about a month after the, trial, on July 11, 1987. If Hamilton felt floored by Pasciuto's testimony, so Pasciuto must have felt betrayed by Blackshear's change of heart. The meeting was awkward.

As Simpson tells the story in the letter to Arnold Burns, it was six in the evening, when Pasciuto and his wife were leaving the home of a mutual friend, Harry Jones, now U.S. Trustee for the Southern District of New York. Judge Blackshear came up to Tony Pasciuto, put his arm around him, and said, "I am sorry, it will be all right."

Pasciuto replied: "No, it is not going to be all right, they are going to fire me."

Blackshear responded, "They are not going to fire you. Don't they know how much you know?"

Pasciuto: "Yes, but they don't care."

Blackshear: "But you told the truth."

Pasciuto: "Of what importance is the truth if everyone else is lying?"

Blackshear: "These people came up from Washington and the U.S. Attorney's office; I got confused. I thought that by changing my story I would hurt less people. I didn't know you were subpoenaed until I saw your testimony, which was sent to me by Barbara O'Connor."

Pasciuto: "Do you remember what we talked with Judge Pierce about?"

"I wanted to see if he was going to continue his crap," Pasciuto recalls. "But he dodged—literally backing away from me—saying, again, 'They sent someone from Washington and someone from the U.S. Attorney's office. I felt the easiest

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thing to do was recant. I felt less people would be hurt if I just bailed out.' "

In Simpson's version, Judge Blackshear had received two telephone calls from William White the day he changed his story. White told him he had the wrong case.

Pasciuto, exclaimed, sarcastically: "What! They asked you about converting *another* case [from Chapter 11 to Chapter 7]?"

Blackshear, waving his hand: "I don't want to get into it and who the hell cares?"

Today, after listening to Simpson's version, Blackshear states: "I don't remember the specifics, word for word, but I do remember having that conversation. And I don't have any problems with what Tony remembers."

Recalling the scene, Pasciuto says: "You know, even now—I'm not angry. I can't help it. I'm not. Blackshear is basically a wonderful person. It's sad—I'm sorry, I'm not angry. It really is sad. I feel devastated."

Tony Pasciuto now has a house in Albany, and soon will have no job either in Washington or New York. Over the past nine months, he has spent $12,000 commuting from Albany to the job he still clung to in D.C. Legal fees are draining his savings—the bills total $25,000 so far. "We're lucky that my wife and I were always frugal and have the money saved," he says proudly.

But Tony Pasciuto is frightened. "At work, ever since I got the letter saying they were firing me, I've felt like I was under house arrest," he relates. "People come by my office to see if I'm there. If I leave, I have to sign out. Everyone is supposed to, but normally very few people sign out. If I don't, they try to track me down. If I go to the Men's Room, they come looking for me.

"I'm just a GS 15," adds Pasciuto, referring to his level in government service. "Stanton, my boss, can't fire me. Stanton made the accusations, but the deputy Attorney General, Arnold Burns, will fire me. How does it feel to know that the deputy Attorney General of the United States wants to destroy a GS 15? It's scary. It scares me to death." ■

(To be continued.)

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Rogue Justice

What Really Sparked the Vendetta Against INSLAW

By MAGGIE MAHAR

TWO weeks ago, *Barron's* told the story of INSLAW, a small software company that landed a $10 million contract with the Justice Department in 1982. Bill Hamilton, INSLAW'S 42-year-old founder, was jubilant when Justice bought the Prosecutor's Management Information System (PROMIS), which he had spent his life—and his life's savings—building. But then things took a mysterious and nasty turn. Justice began withholding payments. Contract disputes multiplied. Threats accelerated. Bill Hamilton couldn't understand what was happening or why. But he knew INSLAW's cash flow was shriveling. By 1985, INSLAW was in financial shambles, and Bill Hamilton ended up in federal bankruptcy court. And there, last fall, a federal bankruptcy judge handed down an astonishing ruling.

Judge George Bason found that the Justice Department had purposefully propelled INSLAW into bankruptcy in an effort to steal its PROMIS software through "trickery, deceit and fraud." On Feb. 2, 1988, Bason ordered the Department of Justice to pay INSLAW about $6.8 million in licensing fees and roughly $1 million in legal costs. He postponed a decision on punitive damages—which could run as high as $25 million.

Trial testimony revealed an unexplained series of "coincidences" surrounding the INSLAW case, including the fact that Justice appointed C. Madison "Brick" Brewer to oversee the INSLAW contract. Brick Brewer had worked for Hamilton—until Hamilton fired him in May 1976. After listening to Brewer's testimony, Judge Bason wrote that he could not understand why Justice picked a man "consumed by hatred" to administer the contract with a former employer. He also couldn't fathom why top department officials ignored complaints from INSLAW attorneys when Brewer began withholding payments. "A very strange thing happened at the Department of Justice . . .," observed Judge Bason, leaving open the question as to just why, at the highest levels, the U.S. Department of Justice condoned a vendetta against a small, private U.S. company.

It was November of 1987 when Judge Bason rejected a Justice Department motion to liquidate INSLAW. Not quite one month later, Judge Bason learned that he would not be reappointed to the bench. In the past four years, only four of 136 federal bankruptcy judges seeking reappointment have been turned down. Bason was replaced by S. Martin Teel, one of the Justice Department attorneys who unsuccessfully argued the INSLAW case before him.

Bason observes that the Justice Department will now have a "third bite of the apple" on the question of punitive damages. Judge Teel has recused himself from the case, and the Justice Department is appealing. So INSLAW vs. the United States of America hangs in limbo.

The INSLAW case also left a Justice Department whistleblower waiting for the verdict on his 21-year career. When *Barron's* began reporting the INSLAW story two weeks ago, we interviewed Tony Pasciuto. Pasciuto revealed how a Justice Department colleague responsible for paying contractors' bills said he divided them into three piles: "One pile he would pay right away, the next pile when he got around to it, and then he opened a drawer and pointed to some invoices in the drawer and said, 'These invoices may never get paid. If you're on the bad list you go in this drawer.'" INSLAW was on the bad list.

Pasciuto also repeated what he had been told by Cornelius Blackshear, a federal judge and former U.S. Trustee based in New York. Blackshear had confided that his Justice Department superior in Washington was pressuring him to send someone down to D.C. to help liquidate INSLAW. Apparently, Washington wanted to make sure that the job was done.

When INSLAW's lawyers deposed Blackshear, he confirmed the story. During INSLAW's suit, Judge Blackshear recanted. Meanwhile, about one hour after Pasciuto was subpoenaed to testify, his superiors in the Justice Department offered him a long-awaited transfer to Albany, N.Y.

Feeling scared and "out there all alone," Tony Pasciuto bought a house in Albany and changed his story. Close to tears, he recanted on the stand. Judge Bason recalls the scene: Mr. Pasciuto seemed to be basically a very honest person who had been caught up amongst a gang of very tough people—and he just didn't know what to do."

According to Pasciuto, after he testified, Judge Blackshear met him at a party and said, "I'm sorry. . . . These people came up from Washington and the U.S. Attorney's office. I got confused. I thought that by changing my story I would hurt less people." When *Barron's* read Pasciuto's version of the conversation to Judge Blackshear, a weary-sounding Blackshear confirmed it: "I don't remember the specifics word for word. But I do remember the conversation. And I don't have any problems with what Tony remembers."

Meanwhile, after Tony Pasciuto recanted in court, the Justice Department told him, "Sorry, the procedure was changed. No transfer to Albany." Then, B. Boykin Rose, one of the Justice Department officials who resigned last week, wrote a letter to Deputy Attorney General Arnold Burns—another member of the Justice group who bailed out—recommending that Pasciuto be fired.

When *Barron's* last talked to Pasciuto, he was commuting from the new house in Albany to a job in Washington, where, he said, "I feel like I'm under house arrest." And he was awaiting the end of his 21-year career in government service.

"My boss, Thomas Stanton, can't fire me," Pasciuto explained. "The Deputy Attorney General, Arnold Burns, will fire me. How does it feel to know that the Deputy Attorney General of the United States wants to destroy a GS15? It's scary. It scares me to death." Last week, Burns led the dissidents out of the department.

Tony Pasciuto's tale is chilling. And it raises two equally disquieting questions: Why did the U.S. Department of Justice want to liquidate Bill Hamilton's software company? And, how high did the coverup of the scheme to destroy INSLAW go?

Illustrations: William Waltzman

WHEN six Department of Justice officials resigned last week, department spokesmen insisted that they were NOT leaving because they feared Attorney General Edwin Meese was about to be indicted. Nor had they beaten their wives—should anyone ask. But, according to *Barron's* sources inside Justice, their exodus represents the climax to a much larger, subterranean game of musical chairs that has been going on in the Department of Justice for the past 18 months.

"I know of at least 50 or 60 career government employees who have been reassigned or forced out," says one department insider. Another charges the department with using FBI background checks in order to manufacture reasons for forcing employees to leave. "They're trying to find—or force—openings for political appointees that they want to bury as what we call 'moles' in the department," explains a longtime Justice Department hand. "They bury the moles so that the next administration can't find them."

The moles, he goes on, are political appointees who are moved into GS (government service) jobs normally held by career government employees. "It could take the next administration two years to figure out who are the career employees and who are the political appointees dropped into their slots," he says. "In the meantime, the moles will be in place—and they'll have the historical knowledge of how the organization works—everyone else will be gone."

But even while the moles are burrowing in, the rumor among them is that sunlight is about to flood the shadowy reaches of the department. For last week's resignations suggest that Special Prosecutor James C. McKay is coming closer to addressing the question: "Was there justice at Justice during the past four years?"

The INSLAW affair suggests a disquieting answer, for the virtually unpublicized case serves as a window on how Justice did business during the Meese years. In his blistering ruling, Judge Bason charged that the department committed a series of "willful, wanton and deceitful acts ... demonstrating contempt for both the law and any principle of fair dealing."

Originally, Bill Hamilton, INSLAW's founder, thought that only one mid-level Justice Department official was willfully and deceitfully out to get him: C. Madison "Brick" Brewer, the former employee whom he had fired. When Hamilton and his wife, Nancy, put their six children in the family station wagon and drove to a federal court on June 9, 1986, to file a suit against the United States government, they firmly believed that Brewer was their nemesis. But as the trial progressed, their certainty gave way to doubts. Why did Justice put Brewer in that critical and, under the circumstances, highly improper position—and allow him to remain? Why did the Justice Department refuse to settle? Why were the government's lawyers, seemingly not satisfied with bankrupting INSLAW, pressing so hard to liquidate the company? When the trial was finally over at the end of 1987, Bill and Nancy Hamilton had won their case, but they still wanted to know why their company was near ruin. So they followed the counsel of Elliott Richardson, one of their attorneys. They sat down at their dining room table, made a list of all the anomalies in the baffling case, and tried to puzzle out the mystery.

"These were all things we were aware of, yet until you organize them and put them side by side, you don't see them," Hamilton observes.

"But seeing the strange incidents and coincidences all together, suddenly it popped out at me. There was a cover-up—and it wasn't just to protect Brick Brewer. For instance, someone had persuaded Judge Blackshear to recant under oath within 48 hours of his original deposition. Who would have that power? You don't do that to a federal judge to protect Brick Brewer—it's too risky. That's when I became convinced then that there was criminal liability at the highest levels of the department. Then, I started to look at the pieces. And, every time I picked up a rock and turned it over, it seemed to fit."

Now, looking back five years, Bill Hamilton believes he understands the reasons for the oppressive behavior of the Justice Department. And he thinks he had an early warning about the department's methods. But he didn't take the warning phone call seriously.

As Bill Hamilton tells it, it was April of 1983, and he was sitting in his office—right across the street from the Washington Post—when he received the call from Dominic Laiti, chairman of Hadron Inc.

"Laiti identified himself, and said that Hadron intended to become the leading vendor providing software for law enforcement nationwide," Hamilton recalls. "He said they had purchased Simcon, a manufacturer of police-department software—and Acumedics, a company that provides computer-based litigation support services for courts. 'Now,' Laiti told me, 'we want to buy INSLAW.' "

"I told him he had just described our ambition," Hamilton relates. "We intended to become the major vendor of these software services ourselves—and we were not interested in being acquired."

But Laiti kept pushing, and, according to Hamilton, boasted, as he remembers, "We have very good political contacts in the current administration—we can get this kind of business."

The words would reverberate in Hamilton's memory later, but, at the time, he didn't heed the implicit threat. He just repeated, "We're not interested in selling," whereupon, he says, Laiti retorted, "We have ways of making you sell."

The story sounds fantastic. Laiti calls it "ludicrous." Is Hamilton making it up? "I would think the whole tale was fantasy—if I hadn't been involved in investigating the Iran-Contra affair," confides a Senate staffer now involved in an investigation of the Justice Department's software contracts. And Judge Bason states that Hamilton was a levelheaded witness with a scrupulously honest memory:

"I was particularly impressed in the last phase of the trial," Bason recalls. "Hamilton could very easily have testified positively in a way that would have been favorable to his case—to an extent of about $1 million. Instead, he testified, 'This is my best recollection—but I am not sure.' The contrast between that and the government witness who was so obviously disingenuous!"

The call from Hadron was strange, so Hamilton remembered it, but in 1983, he shrugged it off. "I politely, but firmly, cut off the conversation. I'd never had a conversation like that with someone in the software industry. I thought Hadron must be new to software—maybe they were used to an industry where this kind of talk was more prevalent."

But now, Hamilton surmises that his troubles may have begun with that phone call. Within 90 days of Laiti's threat, he says, the Department of Justice mounted its attack. And, Hamilton alleges, the attack ultimately became a vendetta, a vendetta that could have been inspired by the convergence of three interests:

Hadron, the brazenly aggressive competitor controlled, from behind the scenes, by a Meese crony from his salad days in California: Dr. Earl Brian.

Brick Brewer, the embittered former employee who, as project manager, was in a strategic position to do INSLAW harm.

D. Lowell Jensen, then the deputy Attorney General, and a ghost from INSLAW's own California past. Jensen had developed a software product to compete with INSLAW and lost—back in the 1970s when Jensen was a D.A. in Alameda County. But Jensen did have the good fortune to meet Ed Meese in that D.A.'s office. So years later, Jensen became top-ranking member of the "Alameda County Mafia," which found a home in the Ed Meese Justice Department.

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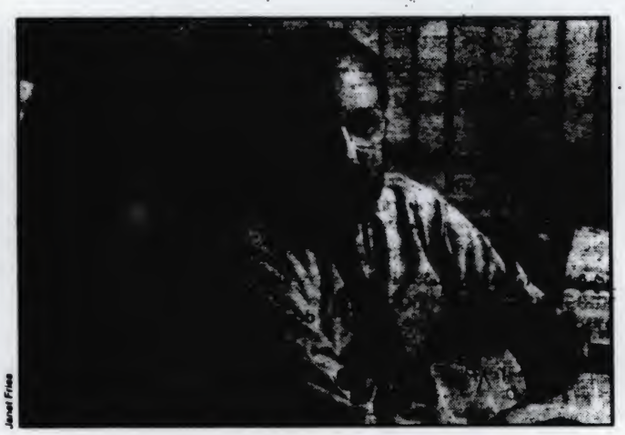
Thomas Wolff



Janet Fries

Wide World Photos

Judge George Bason (top); INSLAW founder Bill Hamilton (center); D. Lowell Jensen, former deputy Attorney General (left).

Rogue Justice

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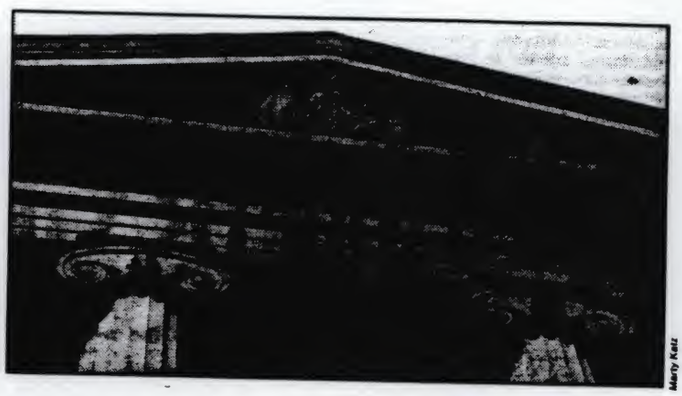

Marty Katz

When Bill Hamilton sat down, in good faith, to negotiate a deal with the Justice Department, the people on the other side of the table were not dispassionate government officials. They were instead a hostile crew, inspired apparently by old scores and private interest. Whether carefully organized or spontaneously launched, the attack was successful—for a while, anyway. When the principals and the department were suddenly in danger of exposure, Hamilton charges, the cover-up spread out to embrace the Justice Department bureaucracy, the IRS, and Jensen's successor—former Deputy Attorney General Arnold Burns—one of the six who quit last week.

"They circled their wagons," Judge Bason wrote. The defense became an offense, and an attorney, a Justice Department whistle-blower, and the judge himself all lost their jobs. Today, only two of the three have found work.

Hamilton is luckier. IBM has become INSLAW's savior—rescuing the company from the auction block, and vindicating the worth of its product. Meanwhile, some Senate staffers looking into the INSLAW case believe that it raises questions about Project Eagle, a much larger scheme to computerize the Justice Department; the $200 million contract is scheduled to be awarded before the end of the year.

The deeply troubling questions about INSLAW remain. If anything, they are magnified by last week's departures from Justice: "Why?" and, "How High?"

"Start," Bill Hamilton says, "with Hadron." For Hadron is, indeed, as Laiti allegedly boasted, "well-connected in the Administration." It is controlled by Dr. Earl Brian, the longtime friend of Ed Meese who owns Financial News Network (*Barron's*, Feb. 29). In fact, business dealings between the Meese family and Brian's company imperiled Meese's 1984 nomination. And Hadron, Hamilton charges, is one of the keys to the mystery of why INSLAW became the victim of rogue justice.

Hadron boasts a history replete with acquisitions, lots of government business—and brushes with the SEC.

The outfit emerged in 1979 from the ashes of Xonics, a no-tech high-tech fiasco founded and headed by a colorful wheeler-dealer named Bernard Katz. *Barron's* described Xonics in 1976 as a company with a knack for "recognizing income as fast as possible and deferring expense as long as it decently could."

In 1977, the SEC brought a lawsuit against Xonics, accusing top management, including Katz, of fraud and manipulating the stock's price, in part by using Xonics stock to acquire other firms. Besieged by two shareholder suits, Xonics agreed to a permanent injunction in April of that year. The company did not admit to any wrongdoing.

But the nimble survived. In 1979, Dominic Laiti gathered a group of former Xonics executives, and bought Hadron. By 1983, the company was lauded in the press as "an investment banker's dream."

For the child had, it appeared, inherited the parent's acquisitive streak, snapping up nine companies in just three years. The offspring did run into a few SEC snags of its own, however. In 1981, the SEC ruled that the limited partnerships Hadron had set up to fund its R&D efforts were in truth a form of loan financing rather than a source of revenue. By 1982, Hadron had lost $4.5 million and another shareholder suit was pending.

But by 1983, Dominic Laiti's group appeared to be on a roll, acquiring their way into an exciting new industry: lasers. Laiti was quoted as saying, "There's the potential for very, very rapid growth."

Unfortunately, the roll turned out to be a very, very rapid roller-coaster. By February of 1984, Hadron was announcing sale of its "money-losing laser-equipment division." In the third quarter a year earlier, Hadron had earned a penny-a-share profit, but by early 1984, it was sinking $1.2 million into the red. Hadron's ups and downs continued: a loss of $231,000 for the 1986 fiscal year, a profit of $852,000 a year later—despite a 13% decline in revenues.

Since 1979, the price of Hadron's stock has followed the same pattern, swinging wildly from its high of 6⅛ in December of 1980 to a low of ¾ in March of 1985. In the past couple of years, the stock has been trading in a narrower range between ¾ and 1 11/16, and an investor complains that as far as he knows, the company hasn't had a shareholders' meeting since 1983. "I'm not so much perturbed that they don't meet—I wouldn't care if they never met, if the the stock were up around $5 or $6," this sizable holder laments.

Still, Hadron has kept bouncing back—with a little help from Uncle Sam: namely, contracts with the Pentagon, a fat settlement with the Agency for International Development and, most recently, a gigantic contract with, yes, the U.S. Department of Justice.

Hadron's government connection can be traced to Earl Brian, who was president of Xonics, Hadron's parent, until October of 1977. Brian slipped away from the company discreetly, just six months after Xonics rolled over and agreed to the SEC injunction. Brian was never charged with any wrongdoing; four Xonics officers were required to sign the consent decree, and he was not one of them.

Ostensibly, Dominic Laiti led the investor group that then rescued Hadron from the ruins of Xonics, but somehow Brian managed to keep his hand on the levers. Today, Laiti—the man who allegedly phoned Bill Hamilton—is Hadron's chairman, but Brian's business-development company controls four of the six seats on Hadron's board.

In March of 1981, Brian resigned from Hadron's board in order, he said at the time, "to divest himself of Hadron to facilitate future transactions" between his business-development company, Infotecnnology, and Hadron "under the Investment Company Act of 1940." But by January 1984, Brian was back on Hadron's board, and, according to the 1987 annual report, he's still there, though Hadron is continuing to do deals with Infotech. In October 1987, Hadron sold Atlantic Contract Services to Infotech at book value for a combination of cash and Infotech common stock in a deal valued at roughly $300,000.

"Brian does an awful lot of buying and selling," the disgruntled Hadron shareholder observes. "He's making money at it, but I'm not sure his shareholders are making money. I know that, as a shareholder of Hadron, I'm not making any money."

Still, in the spring of 1987, Hadron moved into the black, in large part because it received $1.6 million from the Agency for International Development. The AID settlement came after the U.S. government cancelled a Hadron subsidiary's business with Syria.

But the AID money wasn't the only lucky boon from Uncle Sam. The government has long been a Hadron client: In the 1987 fiscal year, approximately 34% of the company's revenues came from the Department of Defense. And most recently, a Hadron subsidiary, Acumedics, locked up a $40 million contract with the Department of Justice.

Hadron never did acquire INSLAW. But there's more than one way to skin a Justice Department software contract. Last October, Hadron's Acumedics division signed the $40 million deal to provide automated litigation-support services for Justice's Land and Natural Resources division.

When the Acumedics contract was awarded, competitors groused that the bidding process was unfair. Justice officials respond that all bids went through a stringent review process.

"There was absolutely no pressure on me. It was one of the cleanest procurements I've been involved in," recalls Steve Denny, the contracts officer on the case.

Justice Department officials also pointed out that the $40 million deal was essentially a continuation of a 1983 contract. Acumedics began doing business with the Justice Department in 1970 as an 8(a) minority business. In 1983, Acumedics was acquired by Hadron—and lost its 8(a) status. But even without the favored status, Hadron somehow managed to hold onto the business, and win a four-year competitive bid contract. Shortly after the acquisition, Earl Brian reappeared on the Hadron board, and, recalls a former Hadron executive, told the board, "If we needed any help in marketing at Acumedics, he had been a member of Reagan's Cabinet, he knew people—and would be willing to make phone calls." The Hadron alumnus adds: "He was just being nice." According to Federal Computer Week, a trade publication: "A competitor for the 1983 contract, who declined to be named, said his company no longer bids on Justice Department contracts. He explained that, after losing the 1983 contract to Acumedics, 'We took a look at their bid compared to ours, and it was about $1.5 million over ours.' "

Now, the size of Acumedics's newest deal with the government has raised old questions about the man behind the Hadron subsidiary, Dr. Earl Brian, and his connection to Ed Meese. A venture capitalist, and former neurosurgeon, Dr. Brian practiced medicine in Vietnam, then returned to the States, where he became health and welfare secretary in then-Gov. Reagan's California cabinet. There, he served with Ed Meese, Reagan's chief of staff until 1979. Today, Brian owns and oversees Infotechnology (which controls Hadron), the Financial News Network, and, most recently, he headed up an investment group that bought the right to run United Press International.

The Brian connection became an embarrassment during Ed Meese's confirmation hearings when Meese acknowledged that his wife, Ursula, borrowed $15,000 from a Meese adviser, Edwin Thomas, in order to buy stock in Brian's company. Coincidentally, just six months later, Brian lent $100,000 to Thomas, who by then needed money himself—and had become a member of the White House staff. Neither Meese nor Thomas listed the loans on their financial disclosure statements. Meese paid no interest, and

Thomas only partial interest. Following a six-month investigation, independent counsel concluded that there was no basis for criminal charges against Meese, and while "inferences might be drawn from Mr. Thomas's contact with Dr. Brian . . . whether Mr. Thomas or Dr. Brian committed a violation of law was not within our jurisdiction. Even if we were to make an assumption that Mr. Thomas might have been acting on insider information, we have been given no evidence by the SEC."

Bill Hamilton learned of the connection between Hadron, Brian and Meese only after the INSLAW trial ended. But then, remembering what Hadron's Chairman Dominic Laiti said about being politically connected—not to mention "ways of making you sell"— Hamilton thought he glimpsed an ominous pattern.

Hamilton believes the Justice Department mounted its attack 90 days after the Hadron phone call, "with the apparent objective of forcing INSLAW either to agree to be acquired, or into bankruptcy." Earl Brian, Hamilton is convinced, would have been happy to pick up INSLAW cheaply—at a liquidation sale.

Moreover, Hamilton has reason to believe that the No. 2 man in Justice, D. Lowell Jensen, wasn't at all disposed to save INSLAW from the auction block. For, years earlier, Jensen had competed with INSLAW's product, PROMIS, head-on. While holding public office in Alameda County, Calif., Jensen was promoting a rival software, DALITE, that he hoped would be used statewide. Jensen lost.

Jensen served as Alameda County district attorney in the early 1970s and during that time he tried to persuade other DA offices to adopt DALITE, the case-tracking software system that he helped develop. To that end, Hamilton alleges, Jensen urged the California District Attorneys Association to incorporate. By incorporating, the association would be in a position to apply for grants, receiving and administering funds needed to finance DALITE training statewide. But, Hamilton recalls, the very month that the association finally incorporated, the Los Angeles District Attorney's office, the state's largest, chose INSLAW's PROMIS software—dashing Jensen's hopes for DALITE.

Larry Donoghue, now deputy district attorney for the County of Los Angeles, remembers the keen rivalry. He was in charge of selecting software for the L.A. office at the time, and he recalls visiting Alameda County while making on-site inspections: "Jensen called me into his office and I went away feeling what I regarded to be unusual and significant pressure to select the DALITE system. But PROMIS was a more suitable system for a large office. After I made the recommendation to L.A., I remember my conversation with Joseph Busch, who was district attorney there at the time. I said, 'Joe, what's your reason for hesitating?' He said, 'Larry, there is resistance to my selecting PROMIS.' The resistance couldn't have come from within the L.A. office," Donoghue adds, "no one there knew anything about software. By a process of elimination, it must have come from Alameda County."

When *Barron's* attempted to reach Jensen for a reply, his office stated that, because the INSLAW case is still pending, he could not comment. But during the trial, Jensen conceded that he had been a critic of INSLAW's software. Yet, he insisted, DALITE was not a commercial product available for sale to the public, and he had no financial interest in it.

Jesen didn't own DALITE any more than Bill Hamilton owned PROMIS when he first invented it. Like DALITE, INSLAW's PROMIS began as a government product. Bill Hamilton developed it while working as a consultant for the U.S. District Attorney's office in D.C. in 1970, and improved it while working for a not-for-profit company funded by he Justice Department. PROMIS became commercial software only after Hamilton left this last job in 1981, formed INSLAW, and raised private funds to refine PROMIS. The software then became a proprietary, and highly profitable, product. Presumably Jensen might have had the same luck with DALITE—if PROMIS had not won the California race.

Instead, Jensen remained at his post in Alameda County for 12 years. And from 1959 until 1967, Ed Meese served with Jensen, as an Alameda deputy district attorney.

When Ronald Reagan became President, Ed Meese recommended that his former colleague, Jensen, be appointed assistant Attorney General in charge of the Criminal Division. In 1983, when Rudolph Giuliani resigned as associate Attorney General—the No. 3 spot in the department—Jensen ascended to that post.

So in early 1984, when Edwin Meese became Attorney General, his old Alameda Country compatriot was already in place. And Jensen was not alone. A network, nicknamed the Alameda County Mafia, already was ensconced in Justice. No fewer than six former Alameda County law-enforcement officials held positions ranging from deputy assistant attorney in the tax division, to commissioner of naturalization and immigration. The former Oakland deputy police chief had snagged

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a spot as director of the National Institute of Justice.

Under Meese, Jensen rose to No. 2, and developed a reputation as a buffer between Ed Meese and his critics. The 58-year-old Democrat was described as "soft-spoken" "apolitical" and a "gentleman of the old standard" in a 1986 New York Times tribute, which added, "Colleagues say that Mr. Jensen, better than anyone else at the Justice Department, knows how to duck."

The Justice Department's diplomat had to duck when congressional investigators looking into the Iran-Contra affair reportedly found a Justice Department memo dated March 20, 1986, saying that Deputy Assistant Attorney General D. Lowell Jensen was giving a "head-up" to the National Security Council, warning that Miami federal prosecutors were on Ollie North's trail.

Bill Hamilton believes Jensen displayed the same talent for diplomatic bobbing and weaving throughout the INSLAW affair. When Hamilton pieced together the anomalies, he realized Jensen's rise to power occurred in the fateful spring of 1983, when he received the call from Hadron, and all of his troubles began.

"Jensen was promoted to associate Attorney General in May or June of '83—and that's when all the contract disputes came up," Hamilton points out. Jensen exhibited a strong interest in the software contract and even served as chairman of the PROMIS oversight committee.

In December of 1983, INSLAW's counsel, Elliott Richardson, and Hamilton met with the assistant Attorney General for administration, Kevin Rooney. They expressed their concern that Brick Brewer, the project manager on the INSLAW contract, was biased against the company because Bill Hamilton had fired Brewer some years earlier. Rooney testified in a deposition that, a week later, he told Jensen's oversight committee that Richardson's proposal seemed reasonable. It appeared that the dispute could be resolved. But Rooney left the committee meeting early. After he was gone, Hamilton says, "Mr. Jensen and the other members of the committee surprisingly approved a plan to terminate the word-processing part of the INSLAW contract with the department's Executive Office for U.S. Attorneys."

In March of 1983, Hamilton alleges, Bill Tyson, formerly director of that Executive Office, told Hamilton that a Presidential appointee at Justice was biased against INSLAW. In March 1987, Tyson sent a handwritten letter to Jensen, reassuring him that he had denied this allegation under oath—and that he had not named Jensen as the

Vorsatz/Gamma-Liaison

appointee in question. He also sent a note to Deputy Attorney General Arnold Burns.

In a deposition, Tyson was asked:

"Did either Mr. Jensen or Mr. Burns ask you to write the letter?"

"No sir."

"Did you not realize that by writing a letter to Mr. Jensen of this type informing him of your intended testimony that he would then be able to develop his testimony to be consistent with yours?"

"That was not my intention."

"But as an attorney, you realize that is a possibility, more than a possibility?"

"Well, that was not my intention. . . ."

In his ruling last September, Judge Bason characterized portions of Tyson's testimony as "so ludicrous that there is no way I can believe anything that the man has to say."

A month before writing the notes, Tyson was removed from his position in the Executive Office for U.S. Attorneys, and he and his secretary were exiled to Justice's Immigration and Naturalization Service—though in positions commensurate with their grade levels.

By protesting too much, Tyson could seem to further implicate Jensen. But, the answer to "How High?" leads even higher. Ed Meese himself may have been involved in a push to force Leigh Ratiner, INSLAW's litigating attorney, off the case.

Ratiner had been a partner at Dickstein, Shapiro, & Morin for 10 years when Elliot Richardson recruited him to take on INSLAW. Dickstein, Shapiro was the law firm of Chuck Colson, of Watergate notoriety. Colson brought in its principal client, the Teamsters Union. More recently, Dickstein, Shapiro became known in the loop as Leonard Garment's firm. Garment, a former colleague says, has been described as "the only attorney in Washington who will put a senator on hold to take a call from a reporter." Garment was former White House counsel to Richard Nixon, and represented Meese during his confirmation hearings.

Meese and Garment put their heads together again after Ratiner filed a complaint in the INSLAW case that named Meese's longtime friend and deputy Attorney General, Jensen.

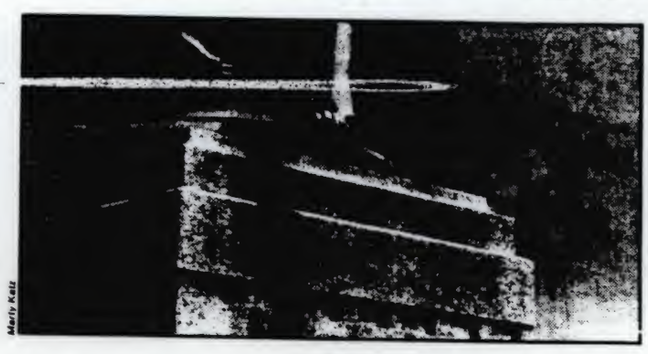
Ratiner, an aggressive attorney with a reputation as very bright, ego-driven, and a loner within the Dickstein, Shapiro firm, relished being viewed as a maverick. So he was displaying his usual independence when he filed the complaint that named Jensen early in October 1986. On Oct. 12, the L.A. Times ran a story airing the INSLAW case and the former rivalry between Hamilton and Jensen. On Oct. 23, Ratiner was asked to leave the law firm. Between Oct. 12 and Oct. 23, Ed Meese talked to Garment about the case.

In a pre-trial interrogatory, Ed Meese conceded that he had a "general recollection of a conversation with Leonard Garment in which Mr. Garment mentioned that he had discussed INSLAW with Arnold Burns." Arnold Burns, the deputy Attorney General who resigned last week, replaced Jensen when Jensen left Washington to take a federal judgeship in San Francisco in the spring of 1986.

When *Barron's* asked Leonard Garment about the conversation, he emulated D. Lowell Jensen. He ducked. "I know there was a suggestion by Meese—or one of his staff—saying he met and spoke to me about INSLAW. Oh, he said it in pre-trial interrogatories? Then . . . it was a question of his recollection."

Garment was more emphatic regarding Ratiner's removal. "No one in the Justice Department or the whole U.S. government or the whole USA suggested to me that anything should be done with Ratiner. Nor do I remember mentioning INSLAW to Meese," he continues. "Look—I met with Meese around the date he mentioned, and I discussed with him a matter of foreign policy. I was on my way to Israel. . . . Memory is so tricky, but I don't have the slightest recollection. . . ." Finally, Garment collected his recollections and summed up his position. "As Sam Goldwyn said, 'Include me out.' "

Ratiner's exit settlement with Dickstein, Shapiro bars him from discussing how and why he left. But Hamilton believes that Burns and Meese expressed dismay at the fact that he had turned the spotlight on Jensen. After Ratiner gave up the case, the firm continued to represent INSLAW, but Hamilton feels their support waned. In January of 1987, Dickstein, Shapiro signed him to an oral agreement to represent INSLAW in its suit against the Justice for $1 million—of which


Marty Katz

about half would go to pay Dickstein, Shapiro's fees. A few days later, Hamilton switched attorneys. In September, Judge Bason awarded INSLAW $6.8 million—plus attorneys' fees.

During the trial, Tony Pasciuto's boss, Thomas Stanton, testified to another reason why Meese might have been interested in the INSLAW case: INSLAW could besmirch the U.S. Trustee program. The U.S. Trustee's Office had been recently set up to administer bankruptcies nationwide, and it was Meese's baby. Meese made the decision to take the Trustee program national—even though his predecessor, William French Smith, had planned to ditch the pilot Trustee program.

Two of Pasciuto's former colleagues in the Justice Department allege that the move to keep the U.S. Trustee program was flagrantly political. "It was a way of getting cronies into office. There would be 50 or 60 positions to be filled," one asserts. Stanton, the director of the Trustee program, seemed well-protected within Justice. This former Pasciuto colleague adds: "It was always puzzling to me how he got away with what he got away with. He'd do things that were blatantly wrong and no one would question him—it's kind of scary." Another former employee confirms, "Irrespective of the law, or anything, if Stanton wanted something, he had the ear of the right people at the highest level—straight from Burns to Meese. If he could not get what he needed, he went to Burns."

Outside Justice, bankruptcy attorneys like Patrick Kavanagh, a solo practitioner in Bakersfield, Calif., worry that the Trustee program "concentrates so much power in one government department. . . . It's supposed to act as a watchdog over lawyers and trustees, but the problem is it's more. It has a considerable amount of power to control the administration of cases."

When a case moves from bankruptcy to liquidation, the U.S. Trustee's Office names the trustee, who converts the assets, oversees an auction, and retains appraisers who will put a price tag on the leavings.

The U.S. Trustee's program also links Justice and the IRS. "The thing that's a little frightening about it is that the U.S. Trustee department sees itself as part of the tax-collecting function of government," observes Charles Docter, the bankruptcy attorney representing INSLAW. "The Justice Department represents the IRS, and the IRS is often the biggest creditor in a liquidation."

In the INSLAW case, tax collectors seem unusually determined to see their debt paid immediately. "The IRS showed up in Bill Hamilton's office the day after the trial ended in August. Ultimately, they would demand that he personally pay the $600,000 that INSLAW owes," says Docter. "Usually the IRS calls us before coming to see one of our clients," he notes. "We talk to them on the phone and get it straight." Hamilton doesn't have the $600,000 in his personal savings account.

But Docter responded to the pressure by writing a letter in which INSLAW promised to pay the withholding portion of the taxes within 30 days. "Normally, the IRS would wait that long," he says. "Instead, on the 28th day, they went out and filed to convert INSLAW from Chapter 11 to Chapter 7." Once again, they were trying to liquidate INSLAW.

Lately, Docter reports, an aggressive IRS has been pursuing withholding taxes by going after the individual who owns a company, "but normally they don't go for the jugular immediately and file for a motion to liquidate."

Still on the bench, Judge Bason managed to stop the IRS push to liquidate INSLAW.

When the tax collectors filed to convert INSLAW to Chapter 7, Docter recalls having a memorable conversation with an attorney from the Justice Department's tax division. Docter chided the attorney from Justice, saying: "Look, the judge has already found that you tried to steal the software through 'trickery and deceit.' Isn't it about time you stopped this heavy-handed stuff? Doesn't anyone in the department have enough guts to say, 'We have to start handling this like lawyers?' The whole thing is just completely sullying the Justice Department."

Docter states that the attorney from Justice replied: "I don't set policy around here. The Attorney General does."

And, Bill Hamilton remembers, Ed Meese approved the Justice Department bonuses awarded after the trial was over, in December of 1987. Three of the six who received bonuses were involved in the INSLAW case:

Stewart Schiffer, who directly supervised the INSLAW litigation, received $20,000.

Michael Shaheen, head of the "Office of Professional Responsibility," $20,000. Shaheen wrote a letter to Arnold Burns on Dec. 18 recommending that whistleblower Pasciuto be fired for exercising "atrocious judgment" in telling the Hamiltons what he knew.

Lawrence McWhorter, Brick Brewer's boss, $10,000. McWhorter, Judge Bason noted, said, " 'I don't recall' or 'I don't know' something like 147 times in his deposition." The court found McWhorter's testimony to be "totally unbelievable."

Arnold Burns, deputy Attorney General until just last week, headed up the panel that received recommendations for Justice bonuses.

With no help from Uncle Sam, Bill Hamilton earned his own bonus. IBM has plans to enter a $2.5 million deal with INSLAW that will bail the firm out of bankruptcy. "About $1 million will be used for software development to integrate INSLAW's products with IBM's own database software," Hamilton says, "and $1.5 million will be used to finance INSLAW's reorganization." Details are still being negotiated.

"IBM's law firm has drawn up a contract. We expect to have it signed in two or three weeks," Hamilton adds.

In a 1981 speech, Edwin Meese had lauded INSLAW's work on PROMIS as "one of the greatest opportunities for success in the future." It seems he was right: The IBM deal provides the clearest evidence of all of the product's continuing value.

Still, the IRS persists in demanding immediate payment—even though the pending IBM contract, not to mention the $8 million owed by Justice, suggest that INSLAW will be able to pay its tax bill.

Charlie Docter, INSLAW's attorney, comments on the IRS posture: "The whole thing smacks of a police state. This case scares the hell out of me."

"Scary" is the word most often used by victims of the INSLAW affair. They are angry, but they also can't quite believe it happened.

That the U.S. Justice Department could engage in a vendetta that would end the career of a federal judge, bankrupt a company, force a partner out of his law firm, cause another federal judge to recant under oath, and reach down and wreck the career of a 21-year government-service employee—that's the stuff of a spy novel, set, one would hope, in another country. But resignations en masse from a Department of Justice inhabited by "moles" suggest alarming facts, not diverting fiction.

Bill Hamilton's story is not based on imagination. It's based on experience, and there's considerable circumstantial evidence that he could have been the victim of a California cabal encompassing onetime members of the Reagan gubernatorial cabinet, and alumni of the Alameda County Mafia. Ed Meese belonged to both groups.

Why did INSLAW rate the attention of such a powerful group? INSLAW was, one Senate staffer suggests, the leading edge of Justice's $200 million "Project Eagle," a plan to com-

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puterize the department's tax division, criminal division and the 94 U.S. Attorney's offices. INSLAW predates the four-year-old Project Eagle, and might well offer an easy entry to any company that wants to participate in that program. The Justice Department has taken pains to say that INSLAW is not involved in Project Eagle. But Senate staffers looking into both INSLAW and Project Eagle aren't so sure.

Project Eagle seems part of the same pattern of musical chairs: John J. Lane, a respected deputy assistant Attorney General for information technology, left last summer, and according to Government Computer News, Justice has lost its four IRM (information resources management) officials with the longest service in the past year. When Lane left, Justice reorganized its computer operations and created a new position, naming Stephen R. Colgate, who had been director of the Treasury Department's Office of Finance, to head Project Eagle.

Asked about his priorities, Colgate was quoted in the trade publication as saying that, for the leadership of the department, "Eagle is the No. 1 priority. Eagle is the technology legacy that this Administration wants to leave behind."

A member of Sen. Christopher Dodd's staff who has been looking into the INLSAW case for more than a year takes a more cynical view:

"If you wanted to wire [fix] something, this would be the project," he confides. "It's been anticipated for a long time. And, it's a lot of money. So, if you wanted to wire something . . . this would be the one."

These days, however, it's unlikely anyone at Justice wants to wire anything. Today, there's a new agenda: Everyone is either burrowing in, or getting out. And, before leaving, there's an urgent desire to tidy up.

Justice had announced its intention to fire Tony Pasciuto two months ago. But in the end, just a week before Deputy AG Arnold Burns resigned, he agreed to meet with Pasciuto's attorney, Gary Simpson, to hear Pasciuto's side of the case.

Five or six officials from Justice were in the room; another three or four—including one who had recommended firing Pasciuto—waited nervously in the hallway outside.

"I was on a roll," confesses Simpson, who is normally matter-of-fact. "It was something else. I was accusing them of all sorts of things, and no one stopped me."

Justice ultimately proposed a painless solution: Pasciuto should walk away, go work somewhere else, and they'd acknowledge he had been a good employee.

During the meeting, Simpson did most of the talking. "Burns was really taking it on the chin," he recalls. "He jerked back a couple of times, but he didn't say anything. More than once, he nodded assent. When I stated that Blackshear had recanted, he nodded again. And," Simpson concludes, "Burns didn't look like he was hearing any of it for the first time." ■